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NAVAL POSTGRADUATE SCHOOL

MONTEREY, CALIFORNIA

THESIS

**A PROBLEM OF DEFINITION: CONSIDERATIONS
FOR RECATEGORIZING DOMESTIC TERRORISTS**

by

Jaime Jones

March 2021

Co-Advisors:

Anders Strindberg (contractor)

Carolyn C. Halladay

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**A PROBLEM OF DEFINITION: CONSIDERATIONS FOR RECATEGORIZING
DOMESTIC TERRORISTS**

Jaime Jones
Department of Homeland Security
Bachelor of Science, 2002

Submitted in partial fulfillment of the
requirements for the degree of

**MASTER OF ARTS IN SECURITY STUDIES
(HOMELAND SECURITY AND DEFENSE)**

from the

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ABSTRACT

In the past five years, the United States has seen a noticeable increase in racially, ethnically motivated violent extremist (REMVE) activity. By examining the relevance of defining terrorism as international or domestic, this thesis identifies antiquated assumptions that have hindered the U.S. federal approach to investigating and prosecuting REMVE organizations. It also explores whether U.S. legal and judicial frameworks are adaptive enough to address emerging REMVE trends and how the homeland security enterprise can better mitigate and respond to the threat. Using case study analysis to explore the Atomwaffen Division and the Base—two accelerationist, white, ethno-nationalist groups with transnational ties—the thesis documents the emerging trend of REMVE actors, their ideology and motivation, and the digital and transnational context of their activity. The thesis also delves into the ways the First and Fourth Amendments shape the investigation and prosecution of violent extremists, and how their application to domestic and international terrorism varies, as defined in 18 U.S.C. §2331. Homegrown violent extremist organizations can no longer be automatically classified as domestic terrorists. In cases where transnational links exist, the homeland security enterprise should leverage the same tools that have been applied to international terrorist threats such as al-Qaida.

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LIST OF ACRONYMS AND ABBREVIATIONS

| | |
|-------|--|
| AEDPA | Antiterrorism and Effective Death Penalty Act |
| AQ | al-Qaida |
| AWD | Atomwaffen Division |
| DHS | Department of Homeland Security |
| DME | digital media ecosystem |
| DOD | Department of Defense |
| DOJ | Department of Justice |
| DOS | Department of State |
| FBI | Federal Bureau of Investigation |
| FISA | Foreign Intelligence Surveillance Act |
| FKD | Feuerkrieg Division |
| FTO | foreign terrorist organization |
| HSE | homeland security enterprise |
| IC | Intelligence Community |
| IRTPA | Intelligence Reform and Terrorism Prevention Act |
| IS | Islamic State |
| JTTF | Joint Terrorism Task Force |
| LGBTQ | lesbian, gay, bisexual, transgender, and queer |
| LTTE | Liberation Tigers of Tamil Eelam |
| NCTC | National Counter-Terrorism Center |
| NSB | National Security Branch |
| OFAC | Office of Foreign Asset Control |
| PKK | Kurdistan Workers Party |
| REMVE | racially, ethnically motivated violent extremist |
| SIT | social identity theory |
| SKD | Sonnenkrieg Division |
| TSC | Terrorist Screening Center |
| TTIC | Terrorist Threat Integration Center |

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EXECUTIVE SUMMARY

In the last five years, the United States has seen a noticeable increase in racially, ethnically motivated violent extremist (REMVE) activity. A report completed by the University of Maryland's National Consortium for the Study of Terrorism and Responses to Terrorism confirmed a steady increase in attacks motivated by far-right extremism in the United States, from fewer than 10 in 2007 to 35 attacks in 2017; conversely, world-wide terror attacks between 2014 and 2018 have dropped 43 percent.¹ The argument that U.S. domestic violent extremists of the REMVE persuasion are a more deadly threat in the United States is supported by a more recent dataset collected by Peter Bergen and colleagues for New America.² The 2018–2020 analysis by Peter Bergen et al. illustrates that for every death caused by international terrorists, 11 deaths were caused by U.S. domestic violent extremists.³ While the University of Maryland's and Bergen's datasets do not cover the same timeframe, they do validate the observation of increasing right-wing terrorism over time.

Due to this increase and emerging trends in REMVE activity, this thesis examined the relevance of categorizing terrorists as either international or domestic and whether these categorical assumptions impeded or assisted in the investigation and/or prosecution of either type. This thesis proceeded to investigate the malleability of the U.S. legal and judicial frameworks to address the emerging REMVE trends by delving into the ways the First and Fourth Amendments shape the investigation and prosecution of violent extremists, and how the legal process varies in the application to international and domestic terrorism, as defined in 18 U.S.C. § 2331. To demonstrate the application of the research, two case studies were completed on the Atomwaffen Division (AWD) and the Base.

¹ Jessica Rivinius, "Global Terrorism Decreases in 2018 as Recent Uptick in U.S. Terrorist Attacks Was Sustained," National Consortium for the Study of Terrorism and Responses to Terrorism, October 8, 2019, <https://www.start.umd.edu/news/global-terrorism-decreases-2018-recent-uptick-us-terrorist-attacks-was-sustained>.

² Peter Bergen et al., "Part IV. What Is the Threat to the United States Today?," New America, accessed February 2, 2021, <http://newamerica.org/in-depth/terrorism-in-america/what-threat-united-states-today/>.

³ Bergen et al.

This thesis documents the foundational and validating ideologies of accelerationism and ethnonationalism to explain the REMVE movement. Furthermore, it explores how the REMVE movement has used the digital media ecosystem to establish transnational or international connections among like-minded individuals and organizations and expand their recruitment, training, and radicalization. As Bergen et al. describe, “The increasing role of social media and the internet . . . in crafting messages to radicalize and recruit individuals” is consistent across the spectrum of extremism.⁴ Indeed, Bergen et al. have calculated that 52 percent of extremists radicalized online.⁵

Homegrown REMVE actors and organizations are using transnational partnerships to transform homegrown REMVE organizations into international organizations. Many of these organizations act domestically, but with their international influence and connections, they can no longer be defined solely as a domestic entity. Furthermore, this new distinction opens options for the United States to leverage the foreign country designation and sanctions as legal grounds for designating REMVE actors or organizations with transnational ties. As such, relevant ideology and overseas connections contradict the label placed on homegrown REMVE actors or organizations as purely domestic; therefore, they should be recognized as a collective entity and, thus, an international terrorist organization.

The homeland security enterprise (HSE) needs to shift the way it perceives and approaches terrorism and national security to better respond to this rising threat. This thesis ultimately argues that homegrown violent extremist organizations can no longer be automatically classified as domestic terrorists. In cases where transnational links exist, the HSE should leverage the same tools that have been applied to international terrorist threats such as al-Qaida or the Islamic State.

⁴ Peter Bergen et al., “Part III. Why Do They Engage in Terrorism?,” New America, accessed February 2, 2021, <http://newamerica.org/in-depth/terrorism-in-america/why-do-they-commit-terrorist-acts/>.

⁵ Bergen et al.

The shared ideological theories explored in this thesis include accelerationism and ethnonationalism.⁶ Accelerationism, based on classical Marxist concepts, describes how such forces as unrestrained capitalism intensify to a point of self-destruction and ultimately cause a systematic collapse.⁷ REMVE actors or organizations accept the concept of acceleration, but instead of focusing on capitalism, they have adapted the narrative to accelerate polarization to induce a race war that will cause the collapse of society as it is known and rebuild it as a white ethno-state.⁸ Ethnonationalism, on the other hand, aligns with the cultural, ethnic and racial ultra-nationalism, all of which hold that races should not intermingle and that migrants must assimilate to the host country's societal norms.⁹ Accelerationism and ethnonationalism have been a focal point in both the U.S. REMVE movement and the European identitarian movement. French identitarian Guillaume Faye, in his book *Why We Fight*, and Renaud Camus, in his book *The Great Replacement*, have warned of the impending demise of European identity if mass migration and cultural genocide are not stopped.¹⁰

Related to patterns of behavior in U.S. homegrown and European REMVE ideology, social identity theory (SIT) is a grounding theory that helps explain the social interactions among in-groups and out-groups. SIT frames discourse or events through internalized ethnic, cultural, religious, or political frameworks, providing individuals with an ability to contextualize, compartmentalize, and interpret information.¹¹ SIT helps to

⁶ Jacob Davey and Julia Ebner, *The "Great Replacement": The Violent Consequences of Mainstreamed Extremism* (London: Institute for Strategic Dialogue, July 2019), <https://www.isdglobal.org/wp-content/uploads/2019/07/The-Great-Replacement-The-Violent-Consequences-of-Mainstreamed-Extremism-by-ISD.pdf>.

⁷ Stephen Yang, "A Marxist Lens on the Digital Age—Part 1," *Cornell Daily Sun*, March 2, 2020, <https://cornellsun.com/2020/03/02/yang-a-marxist-lens-on-the-digital-age-part-1/>.

⁸ Davey and Ebner, *Great Replacement*, 13.

⁹ Niki Sterkenburg, *A Practical Introduction to Far-Right Extremism* (Amsterdam: Radicalisation Awareness Network Centre of Excellence, 2019), 7, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/radicalisation_awareness_network/ran-papers/docs/ran_fre_factbook_20191205_en.pdf.

¹⁰ Guillaume Faye, *Why We Fight: Manifesto of the European Resistance* (London: Arktos Media, 2011); Davey and Ebner, *Great Replacement*.

¹¹ David Brannan, Kristin Darken, and Anders Strindberg, *A Practitioners Way Forward: Terrorism Analysis* (Salinas, CA: Agile Press, 2014), 10.

explain the patterns of both European groups and homegrown U.S. REMVEs, particularly the reasons for their connecting and cross-pollinating and the means by which they find each other. REMVE actors are using digital platforms to meet, socialize, and validate their beliefs online. These digital platforms amalgamate in the digital media ecosystem (DME), which comprises, but is not limited to, mainstream social media applications, such as Facebook and its alternative Parler, and Twitter and its alternative Gab; imageboards such as 8chan, 4chan, and 8chun; voice and chat platforms, such as Discord; cloud-based encrypted instant messaging over internet-protocol services, such as Telegram and Threema; video-sharing sites, such as YouTube; information aggregators, such as Reddit; and mainstream mass media, such as CNN and Fox News.

The use of the DME to communicate with like-minded individuals, radicalize an otherwise unreachable cohort, and connect with both U.S.- and foreign-based domestic terrorists is one of the aspects that makes this new generation of REMVE actors or organizations such an exponentially difficult threat to quantify. This movement is geographically nationless and does not seek a permanent home but thrives in the dialogue of extremist ideology posted on imageboards, chans, and blogs.

To illustrate the emerging trends in REMVE, this thesis provides case studies of the AWD and the Base to describe those aspects. Just as the medium in which extremists communicate has changed, so, too, has their social commingling as they have transitioned, in some cases, from the shadows of the internet to in-person meetings and survivalism training camps. The AWD and the Base have begun to establish meaningful connections overseas and affiliated organizations in the United Kingdom, Germany, Sweden, Norway, and Australia. Some members have even traveled to Europe to comeingle with like-minded individuals.¹² Terrorism expert Tim Lister explains that some REMVE actors have used the civil war in Ukraine as mercenaries used the war in Syria—to develop skills and receive training that could be useful in other conflicts or in their homelands.¹³

¹² Jason Blazakis et al., *The Atomwaffen Division: The Evolution of the White Supremacy Threat* (New York: Soufan Center, 2020), <https://thesoufancenter.org/research/the-atomwaffen-division-the-evolution-of-the-white-supremacy-threat/>.

¹³ Tim Lister, “The Nexus between Far-Right Extremists in the United States and Ukraine,” *CTC Sentinel* 13, no. 4 (April 2020): 30–41.

Homegrown REMVE actors are using the legal blanket of the First Amendment to spread vitriol and then shield themselves from owning the violence they incite. If U.S. authorities transition from viewing violent extremists as a First Amendment issue to concentrating on the deeds committed because of their words, then the Fourth Amendment comes into focus. Investigating U.S. citizens is complicated, but the post-9/11 global war on terrorism has set a strong precedent that even First Amendment protections can be overcome when clearly defined threats to national security exist.

This thesis argues—in an effort to more effectively counter domestic U.S. REMVE organizations—that the HSE will need to acknowledge and leverage the transnational elements and reach of homegrown U.S. REMVE organizations or actors. When transnational links can be established, authorities should no longer treat these threats as domestic, as they are no longer purely on U.S. soil, but instead investigate and prosecute them as the international actors and organizations they are. By the end, this thesis will show that the precedent has been established for allowing national security concerns to supersede concerns about constitutional protections, and it should be applied equally in cases of white nationalist extremists with international connections.

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I. INTRODUCTION

Recent events are driving authorities and citizens to analyze the phenomena of racially, ethnically motivated violent extremists (REMVEs), which encompass identitarians, white nationalists, the alt-right, and anti-authoritarians, and the use of violence to incite civil unrest.¹ Domestically, the Department of Homeland Security (DHS) issued a National Terrorism Advisory Bulletin on January 27, 2021, stating that “throughout 2020, Domestic Violent Extremists . . . targeted individuals with opposing views engaged in First Amendment-protected, non-violent protest activity . . . [and] plotted and on occasion carried out attacks against government facilities,” angered by “long-standing racial and ethnic tension.”² The bulletin elaborates: “DHS remains concerned that Homegrown Violent Extremists . . . inspired by foreign terrorist groups . . . remain a threat.”³

Just a year earlier, on January 16, 2020, the Federal Bureau of Investigation (FBI) arrested three members of the Maryland cell of the Base, a transnational REMVE organization. The three members were not indicted on charges directly related to terrorism but on multiple firearms offenses based on credible intelligence they were an imminent threat to a gun rights rally held in Richmond, Virginia, the following week.⁴ Why were those three not charged on terrorism grounds? If they had been handled as domestic terrorists, there would have been no applicable federal domestic terrorism laws and,

¹ In 2019, acting secretary of DHS Kevin McAleenan coined the term *racially, ethnically motivated violent extremists*, or REMVE, to “respond to the emerging threat landscape. . . . Domestic terrorism/targeted violence threats [had] become more frequent, more prevalent, more impactful on the American conscience.” It is worth noting this charged term—while allowing the author to use one label for homegrown violent extremists, white nationalists, ethnonationalists, identitarians, the alt-right, and anti-authoritarian organizations—loses some granularity. Nevertheless, its use synthesizes the overarching traits of the aforementioned violent extremism as hate directed at segments of society because of their race and ethnicity. Moreover, in this thesis, REMVE refers to right-wing or far-right terrorism, not left-wing terrorism or related groups.

² “National Terrorism Advisory System Bulletin,” Department of Homeland Security, January 27, 2021, <https://www.dhs.gov/ntas/advisory/national-terrorism-advisory-system-bulletin-january-27-2021>.

³ Department of Homeland Security.

⁴ Sarah McCammon, “Virginia Governor Declares State of Emergency Ahead of Gun Rights Rally,” NPR, January 15, 2020, <https://www.npr.org/2020/01/15/796666321/virginia-governor-declares-state-of-emergency-ahead-of-pro-gun-rally>.

therefore, no grounds to charge them. Even if the argument was that their U.S. citizenship granted them constitutional protections to assemble, one member of the Maryland cell was a Canadian citizen and not afforded the same protections. This international connection is one example of the transnational element evolving in the REMVE movement.

The homeland security enterprise (HSE) needs to shift the way it perceives and approaches terrorism and national security to better respond to this rising threat. The HSE is operating on antiquated assumptions that shape the federal application of legal and judicial frameworks to homegrown REMVE activity. Three major considerations support the urgency of U.S. authorities' examining the relevance of defining terrorism as international or domestic. First, domestic violent extremists are increasingly transnationally linked. Second, domestic REMVE organizations are following the same machinations or formulas as international Islamic extremists and, thus, should be categorized similarly. Third, the United States must realize the significance of its international partners and allies by recognizing and designating U.S. organizations as terrorist threats.

The first area to consider is the problematic persistence of a rigid dichotomy in classifying terrorism as either international or domestic. This framework was applicable at one time, but globalization and the subsequent interconnectedness of the world has removed previously clear distinctions. Identity and affinity are less tied to location; individuals with certain ideas can connect to like-minded individuals anywhere in the world with the click of a button. Terrorism scholars such as Bruce Hoffman and Colin Clarke discuss the challenges of counterterrorism strategies that “fail to keep pace with either the social media technology that facilitates and abets radicalization or terrorist adversaries that defy traditional conceptualizations.”⁵ Violent extremists plan and discuss their actions on the internet, often on semi-secure or even open platforms, which are not tied to any single country or location. In order to have effective laws and mitigation strategies, the approach to categorizing terrorism needs to be similar to the threat—it needs

⁵ Bruce Hoffman and Colin Clarke, “The Next American Terrorist,” *Cipher Brief*, July 2, 2020, <https://www.thecipherbrief.com/the-next-american-terrorist>.

to adapt. Approaches need to respond and react to the real nature of the emerging threat landscape.

In multiple aspects, the REMVE movement is showing striking similarities to Islamic extremist organizations in terms of how it prepares, organizes, and internationally connects with like-minded actors or organizations. Analogous to the training camps the Islamic State (IS) set up to assimilate its members and train them in military warfare tactics, recent reports have surfaced that the Base's founder, Rinaldo Nazzaro, is attempting to coordinate and fund paramilitary survivalism training not for "an immediate impact, but to be felt across decades."⁶ In addition, some REMVE organizations are creating transnational domestic violent extremist cells in geographically disparate locations comparable to international Islamic extremists. Two specific organizations focused on the domestic United States but transnational in nature are the Atomwaffen Division (AWD) and the Base, both of which are discussed in detail in this thesis.

Moreover, domestic violent extremists today are more likely to be affiliated with or linked transnationally to groups that support an all-encompassing global movement with the same ethnocentric goals while still focusing their efforts and violence on the country or region in which they reside. An example of this connection came the day after the insurrection rioters took the U.S. Capitol on January 6, 2021. Azov Battalion leader Serhiy Korotkiikh, among an array of Eastern European and Balkan far-right cohorts, expressed support: "The Whites, finally, have decided to act and are taking over the Capitol building. . . . The Whites are still here, and we know what to do."⁷ In another instance, two foreign members of the Base, a U.S. organization, are currently being denied release by a judge in

⁶ Anne Speckhard and Ahmet S. Yayla, "Eyewitness Accounts from Recent Defectors from Islamic State: Why They Joined, What They Saw, Why They Quit," *Perspectives on Terrorism* 9, no. 6 (2015): 95–118; Ben Makuch, "Russia-Based Neo-Nazi Terror Leader Offers Training to American Far Right," VICE World News, January 19, 2021, <https://www.vice.com/en/article/3anj8w/russia-based-neo-nazi-terror-leader-offers-training-to-american-far-right>.

⁷ Robert Coalson, "'We Know What to Do': Far-Right Figures across Eastern Europe Applaud U.S. Capitol Violence," Radio Free Europe/Radio Liberty, January 7, 2021, <https://www.rferl.org/a/far-right-figures-across-eastern-europe-applaud-us-capitol-violence/31038085.html>.

the Netherlands as the authorities investigate their crimes, including “right-wing extremist incitement.”⁸

International partners and allies are recognizing REMVE organizations and actors as a threat. Hannah Jackson reported on an evolving situation in Canada’s parliament wherein members of parliament unanimously voted in favor of “us [ing] all the available tools to address the proliferation of white supremacists and hate groups starting with . . . immediately designating the Proud Boys as a terrorist entity.”⁹ Canada’s current list of 73 designated terrorist entities include the AWD, the Base, the Proud Boys, the Russian Imperialism Movement, Combat 18, the Taliban, al-Qaida, and IS.¹⁰

This thesis argues, in an effort to more effectively counter domestic U.S. REMVE organizations, the HSE will need to recalibrate how it perceives and categorizes domestic U.S. REMVE organizations or actors. Moreover, the HSE will need to acknowledge and leverage the transnational elements and reach of domestic U.S. REMVE organizations or actors. Authorities should no longer treat these threats as domestic, as they do not reside solely in the United States, but instead investigate and prosecute them as the transnationally linked actors and organizations that they are. By the end, this thesis will show that the precedent has been established for allowing national security concerns to supersede concerns about constitutional protections, and it should be applied equally in cases of white nationalist extremists with international connections.

⁸ Wilmer Heck, “Steven and Fabio Advocated Violence for a ‘White Ethnostate’ and Are Now on Trial,” NRC, January 20, 2021, <https://www.nrc.nl/nieuws/2021/01/20/steven-en-fabio-willen-een-witte-etnostaat-a4028488>.

⁹ Hannah Jackson, “MPs Unanimously Agree to Urge Feds to Designate Proud Boys a Terrorist Entity,” Global News, January 25, 2021, <https://globalnews.ca/news/7598355/motion-passes-proud-boys-terrorists/>.

¹⁰ “Currently Listed Entities,” Public Safety Canada, June 21, 2019, <https://www.publicsafety.gc.ca/cnt/ntnl-scrnt/cntr-trrrsm/lstd-ntts/crrnt-lstd-ntts-en.aspx>; Public Safety Canada, “Government of Canada Lists 13 New Groups as Terrorist Entities and Completes Review of Seven Others,” Government of Canada, February 3, 2021, <https://www.canada.ca/en/public-safety-canada/news/2021/02/government-of-canada-lists-13-new-groups-as-terrorist-entities-and-completes-review-of-seven-others.html>.

A. SIGNIFICANCE

The federal government is recognizing the growing threat of REMVE violence. In the last two years, the FBI and DHS, in separate statements, testified before Congress regarding REMVE violence. The FBI attested that deaths from REMVE attacks outnumber those caused by foreign terrorist organizations (FTOs), and the bureau continues to reinforce REMVE violence as a top-level priority.¹¹ In 2019, DHS published a strategic framework defining REMVE violence as “targeted violence aimed at individuals based on their race, ethnicity, national origin, religion, sexual orientation, gender and gender identity.”¹² Moreover, these groups are increasingly violent toward law enforcement, even in their own communities.¹³

Even as the federal government acknowledges the REMVE problem set, U.S. law enforcement and the Intelligence Community are hindered in leveraging certain tools or approaches to mitigate FTO threats. International and domestic terrorism are defined similarly, starting with the following three elements:

[They] (1) involve violent acts or acts dangerous to human life, (2) violate federal or state criminal laws or would do so if committed in the jurisdiction of the United States or any state, [and] (3) appear intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnapping.¹⁴

The chief difference is the fourth element, which speaks directly to the location of the terrorism; for international terrorism, it “occur [s] primarily outside the territorial

¹¹ Christopher Wray, “FBI Oversight: Statement before the House Judiciary Committee,” Federal Bureau of Investigation, February 5, 2020, <https://www.fbi.gov/news/testimony/fbi-oversight-020520>.

¹² Department of Homeland Security, *Department of Homeland Security Strategic Framework for Countering Terrorism and Targeted Violence* (Washington, DC: Department of Homeland Security, 2019), 10, https://www.dhs.gov/sites/default/files/publications/19_0920_plcy_strategic-framework-countering-terrorism-targeted-violence.pdf.

¹³ Aris Folley, “FBI Warns White Supremacists Encouraging Members to Spread Coronavirus to Law Enforcement, Jews: Report,” *Hill* (blog), March 22, 2020, <https://thehill.com/blogs/blog-briefing-room/news/488919-fbi-white-supremacists-encouraging-members-to-spread>.

¹⁴ 18 U.S.C. § 2331 (2012), quoted in Mary McCord, “It’s Time for Congress to Make Domestic Terrorism a Federal Crime,” *Lawfare* (blog), December 5, 2018, <https://www.lawfareblog.com/its-time-congress-make-domestic-terrorism-federal-crime>.

jurisdiction of the United States, or transcend [s] the national boundaries.”¹⁵ Domestic terrorism, on the other hand, is “primarily within the territorial jurisdiction of the United States.”¹⁶

Take, for example, the following scenarios. When a homegrown violent extremist pledges allegiance to an FTO, even if that actor resides in the United States and his terroristic actions focus on the homeland, officials consider the actor a member of an FTO. On the other hand, if the actor is a homegrown violent extremist who supports white supremacy or white ethnonationalism and resides in the United States—and whose terroristic actions focus on the homeland—multiple cases have shown that officials will not consider the actor a terrorist nor his/her actions terrorism. Examples of the latter are manifest in Timothy McVeigh’s Oklahoma City bombing, Robert Bowers’s attack at the Pittsburgh Tree of Life synagogue, and Dylann Roof’s mass murder at the Charleston, South Carolina, church shooting. This duality limits the United States’ ability to recognize terrorism and leverage similar tools against domestic REMVE organizations or actors.

REMVEs are an under-policed population in the United States, often because the First, Second, and Fourth Amendment sensitivities involved make arrests and prosecutions difficult due to the actors’ status as U.S. citizens.¹⁷ The United States uses the designation of an FTO as a tool to exert influence on foreign organizations. One valuable aspect of designating transnational domestic REMVE actors or organizations *terrorist organizations* would be to signal to their international partners that the United States understands the threat that transnational domestic terrorists pose to international security.

Transnational domestic violent extremists are using transnational REMVE partnerships to transform U.S. domestic violent extremist organizations into transnational organizations. As such, transnationally linked domestic violent extremists should be considered a collective entity and, thus, a member of an FTO. Many of these groups may

¹⁵ 18 U.S.C. § 2331(1)(C).

¹⁶ 18 U.S.C. § 2331(5)(C).

¹⁷ David E. Heller, “Designating Domestic Terrorist Individuals or Groups” (master’s thesis, Naval Postgraduate School, 2010), <http://hdl.handle.net/10945/5213>.

act domestically, but with their international influence and connections, they can no longer be defined solely as a domestic entity. Furthermore, this new distinction opens options for the United States to leverage the foreign country designation and sanctions as legal grounds in designating REMVE actors or organizations with transnational ties.

B. RESEARCH QUESTION

How do emerging trends in REMVEs challenge U.S. homeland security legal and judicial frameworks? How could the homeland security enterprise more effectively combat the transnational threat of REMVE violence?

C. RESEARCH DESIGN

To understand emerging trends in the domestic violent extremist movement, an analysis of academic articles, open-source reporting, and government testimony or announcements was completed. This research studied the corresponding ideology behind the current increase in anti-government and ethnonationalism sentiment, the use of social media by U.S. domestic violent extremists, and the new global connection among transnational actors or organizations.

In order to understand the challenges this new cohort of violent extremists presents to the U.S. HSE, this thesis describes the legal and judicial mechanisms that categorize international and domestic terrorism in the United States. That effort entailed exploring the boundaries of U.S. definitions of international and domestic terrorism and discussing the federal statutes criminalizing international terrorism and the predicate crime criteria for domestic terrorism. This legal analysis establishes the foundation that either enables or prevents federal authorities from investigating and prosecuting domestic terrorism—more specifically, focusing on U.S. Supreme Court decisions on First and Fourth Amendment protections and limitations. Special attention was paid to how precedent shapes investigative and prosecutorial capabilities. This legal analysis conformed to the issues, rules, analysis, and conclusion formula.¹⁸

¹⁸ “The IRAC Formula,” Law Nerds, accessed May 25, 2020, <https://lawnerds.com/guide/irac.html>.

This thesis then demonstrates the emerging trends in the United States and the ways these groups' activities, ideological community, and recruitment transcend borders in case studies.¹⁹ Qualitatively evaluating new phenomena in U.S. REMVEs reveals the extent to which evolving capabilities allow these groups to circumvent detection and prosecution. This evaluation includes a descriptive and comparative analysis of their ideology, motivation, structure, use of digital platforms, links to international like-minded groups, and affiliation to international violent extremists.²⁰ The organizations—the AWD and the Base—were selected because of their similarities and relationship to one another. Both have evolved transnationally, but this nascent trend is better viewed through the lens of an established organization versus an emerging one. This thesis concludes with recommendations based on the aforementioned research and provides policymakers with options for mitigating the threat posed by transnational REMVE organizations and actors.

D. CHAPTER OVERVIEW

This thesis begins with a literature review in Chapter II, which covers several trends in U.S. domestic and transnational REMVEs. This chapter analyzes emerging trends in REMVE ideology and motivation and employs theory to frame the possible explanations for the recent increase in REMVE violence. The chapter concludes with an exploration of the digital media ecosystem (DME) and how it has empowered REMVE organizations to transcend national borders and become a transnational movement. Chapter III assesses the U.S. federal government's response to and/or mitigation of threats and acts of international and domestic terrorism. Specifically, it reveals how this response is bifurcated by the current definitions and legal frameworks—and challenges the collective status quo. Chapter IV examines two transnationally linked REMVE organizations through descriptive case studies of how REMVE movements begin, evolve, and develop through the lens of an established organization versus an emergent one. In conclusion, this thesis posits that acknowledging not only the commonalities between international and domestic

¹⁹ Pamela Baxter and Susan Jack, "Qualitative Case Study Methodology: Study Design and Implementation for Novice Researchers," *Qualitative Report* 13, no. 4 (2008): 544–59, <https://nsuworks.nova.edu/tqr/vol13/iss4/2/>.

²⁰ Baxter and Jack.

terrorism but also the real threat REMVE organizations pose could be a paradigm shift in how the United States mitigates the threat of transnational domestic violent extremists.

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II. LITERATURE REVIEW

This literature review discusses several emerging trends in U.S. domestic terrorism and transnational violent extremism. It starts with the convergence of certain key events including the 2008 election of the first African-American president, the introduction of smartphones, and the explosion of social media.²¹ These trends may have facilitated an increase in domestic terrorism in the United States—shifting from physical engagements to an expanding DME to further terrorist efforts—and the unique commingling of unknown actors and known right-wing extremists, understood in this chapter through the concept of social identity theory and hive terrorism.

Some terrorism scholars predicted a rise in domestic terrorism following the election of Barack Obama in 2008.²² A DHS assessment published the next year warned that the election of an African-American president could boost recruitment and radicalization of right-wing extremists.²³ While this DHS qualitative assessment could not quantify the recruitment value, the number of domestic terror attacks increased after 2008, and it continues to rise.²⁴ Few anticipated the impact smart phones and social media would have on spreading propaganda or creating networks—despite their ubiquitous presence now. As Peter Bergen et al. describe in their piece for *New America*, “The increasing role of social media and the internet . . . in crafting messages to radicalize and recruit

²¹ David Squires, “History and Different Types of Social Media,” *Everything You Always Wanted to Know about Social Media: (But Were Too Afraid to Ask)* (blog), October 12, 2016, <https://scalar.usc.edu/works/everything-you-always-wanted-to-know-about-social-media-but-were-too-afraid-to-ask/history-and-different-types-of-social-media>.

²² Seth G. Jones, *The Rise of Far-Right Extremism in the United States* (Washington, DC: Center for Strategic and International Studies, 2018), <https://www.csis.org/analysis/rise-far-right-extremism-united-states>.

²³ Steven Aftergood, “DHS Sees Resurgence in Rightwing Extremism,” *Federation of American Scientists* (blog), April 14, 2009, https://fas.org/blogs/secrecy/2009/04/rightwing_extremism/.

²⁴ Jessica Rivinius, “Global Terrorism Decreases in 2018 as Recent Uptick in U.S. Terrorist Attacks Was Sustained,” National Consortium for the Study of Terrorism and Responses to Terrorism, October 8, 2019, <https://www.start.umd.edu/news/global-terrorism-decreases-2018-recent-uptick-us-terrorist-attacks-was-sustained>.

individuals” is consistent across the extremist paradigm.²⁵ Indeed, Bergen et al. have calculated that 52 percent of extremists radicalized online.²⁶ A report completed by the University of Maryland’s National Consortium for the Study of Terrorism and Responses to Terrorism confirmed a steady increase in attacks motivated by far-right extremism in the United States, from fewer than 10 in 2007 to 35 attacks in 2017; conversely, world-wide terror attacks between 2014 and 2018 have dropped 43 percent.²⁷ The argument that U.S. domestic violent extremists of the REMVE persuasion are a more deadly threat in the United States is evidenced by data collected by New America.²⁸ The 2018–2020 analysis by Peter Bergen et al. illustrates that for every death caused by international terrorists, 11 deaths were caused by U.S. domestic violent extremists.²⁹ Bergen et al. assert that since 9/11, far-right terrorism has been more deadly than foreign terrorism.³⁰ Thus, the prediction of an uptick in right-wing terrorism seems to have support.

A. IDEOLOGY AND MOTIVATION

The shared ideological objectives of contemporary REMVEs align with two ideologies, one being accelerationism.³¹ Accelerationism, based on classical Marxist concepts, describes how such forces as unrestrained capitalism will intensify to a point of self-destruction and ultimately cause a systematic collapse.³² In the 1990s, British philosopher Nick Land “argued that the triumph of capitalism and the rise of techno-culture

²⁵ Peter Bergen et al., “Part III. Why Do They Engage in Terrorism?,” New America, accessed February 2, 2021, <http://newamerica.org/in-depth/terrorism-in-america/why-do-they-commit-terrorist-acts/>.

²⁶ Bergen et al.

²⁷ Rivinius, “Global Terrorism Decreases in 2018.”

²⁸ Peter Bergen et al., “Part IV. What Is the Threat to the United States Today?,” New America, accessed February 2, 2021, <http://newamerica.org/in-depth/terrorism-in-america/what-threat-united-states-today/>.

²⁹ Bergen et al.

³⁰ Bergen et al.

³¹ Jacob Davey and Julia Ebner, *The “Great Replacement”: The Violent Consequences of Mainstreamed Extremism* (London: Institute for Strategic Dialogue, July 2019), <https://www.isdglobal.org/wp-content/uploads/2019/07/The-Great-Replacement-The-Violent-Consequences-of-Mainstreamed-Extremism-by-ISD.pdf>.

³² Stephen Yang, “A Marxist Lens on the Digital Age—Part 1,” *Cornell Daily Sun*, March 2, 2020, <https://cornellsun.com/2020/03/02/yang-a-marxist-lens-on-the-digital-age-part-1/>.

were inextricably intertwined.”³³ In articulating this fringe concept, Land reasoned “the self . . . was being dissolved by the increasing speed and pace of modern life—the individual was becoming less important than the techno-capitalist system it found itself in.”³⁴ Land’s philosophical analysis of Marxism and technology has evolved into the basis for modern-day accelerationism. The basic tenets of accelerationism are not linked to violence, but as Joanna Mendelson, senior investigative researcher for the Anti-Defamation League, explains, “It’s not an ideology that exists in a theoretical sense . . . [but] an ideology that has actually manifested in real-world violence.”³⁵

REMVE actors or organizations accept the concept of acceleration, but instead of focusing on capitalism, they have adapted the narrative to accelerate polarization to induce a race war that will cause the collapse of society as it is known and rebuild it as a white ethno-state.³⁶ Supporting the concept of preserving ethno-states is French identarian Guillaume Faye, who focused on the French identarian principles of “struggl [ing] for the heritage of our ancestors and the future for our children,” explaining that “the basis of everything is biocultural identity and demographic renewal.”³⁷ In Chapter III, the case studies of REMVE organizations—the AWD and the Base—demonstrate the prevalence of accelerationism in violent extremist movements and both organizations’ embrace of the theory to bring about political revolution.³⁸ Notably, organizations that support the accelerationist theory generally grapple with what they perceive to be an existential dilemma—that the white race is on the verge of extinction and that multiculturalism, through global migration, coupled with women’s rights and the “Jewish agenda,” has destroyed civilization. Faye argues in his book *Why We Fight* similar concepts regarding

³³ Yang.

³⁴ Zack Beauchamp, “The Extremist Philosophy That’s More Violent Than the Alt-Right and Growing in Popularity,” Vox, November 18, 2019, <https://www.vox.com/the-highlight/2019/11/11/20882005/accelerationism-white-supremacy-christchurch>.

³⁵ Beauchamp.

³⁶ Davey and Ebner, *Great Replacement*, 13.

³⁷ Guillaume Faye, *Why We Fight: Manifesto of the European Resistance* (London: Arktos Media, 2011), 37–38.

³⁸ Davey and Ebner, *Great Replacement*, 13.

the loss of the French identity due to globalization and the French people's supporting their own demise by accepting the "dogma of a non-ethnic state."³⁹

Ethnonationalism is another ideology that motivates REMVE organizations or actors. This theory aligns with the cultural, ethnic, and racial ultra-nationalism, all of which hold that races should not intermingle and that migrants must assimilate to the host country's societal norms.⁴⁰ As Faye concludes, "[The] belief that aliens can be assimilated and integrated, as they defend and maintain the specificities of their original culture . . . [is] one of the most noxious [maxims] of all, particularly dear to our 'ethnopluralist' intellectuals."⁴¹ Yet another way to view ethnonationalism is "loyalty to a particular ethnic or racial group . . . creating resistance to cultural and educational imposition by other groups."⁴² As the Soufan Center reported in mid-2020, the state of societal affairs with Black Lives Matter protests and COVID-19 has created a petri dish for racial tensions to flourish; furthermore, ethnonationalists perceive the current societal climate as instrumental in creating a white ethno-state.⁴³ Academia has noticed that social and racial tensions have risen in society writ large. As highlighted in Forrest Cullings's thesis, the term *alt-right* had been previously established, but it was not until the 2016 presidential election that it gained traction.⁴⁴ Cullings explains, "Presidential candidate Trump's hardline rhetoric on immigration fell in line with [the] Alt-Right belief . . . gained momentum through the presidential election season but lost that momentum . . . when the Alt-Right's Unite the Right rally in Charlottesville, Virginia resulted in several injuries and

³⁹ Faye, *Why We Fight*, 42.

⁴⁰ Niki Sterkenburg, *A Practical Introduction to Far-Right Extremism* (Amsterdam: Radicalisation Awareness Network Centre of Excellence, 2019), 7, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/radicalisation_awareness_network/ran-papers/docs/ran_fre_factbook_20191205_en.pdf.

⁴¹ Faye, *Why We Fight*, 84.

⁴² "What Is Ethno-Nationalism?," *Edupedia* (blog), accessed December 23, 2020, <https://www.theedadvocate.org/edupedia/content/what-is-ethno-nationalism/>.

⁴³ Jason Blazakis et al., *The Atomwaffen Division: The Evolution of the White Supremacy Threat* (New York: Soufan Center, 2020), 8, <https://thesoufancenter.org/research/the-atomwaffen-division-the-evolution-of-the-white-supremacy-threat/>.

⁴⁴ Forrest Cullings, "Alt-Right Influence on the Radicalization of White Nationalists in the United States, According to Significance Quest Theory" (master's thesis, Naval Postgraduate School, 2020), 28, <https://calhoun.nps.edu/handle/10945/65496>.

one death.”⁴⁵ Not lost was the sentiment or the perceived permission for certain segments of U.S. society to express their hate through vitriol and action.

While not all ethnonationalists are accelerationists, when ethnonationalists do believe in the concept of accelerationism, they are more willing and eager to ignite an all-out race war to create chaos and assist in society’s collapse. What do these groups believe will happen after society has collapsed? They believe a new ultra-national white ethno-state will be erected to take the place of the collapsed society.⁴⁶

B. THEORY

While theory is not central to this thesis, theoretical models from social psychology can serve to explain some of the underlying drivers or motivations of REMVE actors. Applying theory can be helpful for those seeking to understand why and how someone comes to embrace hate and racist narratives. This section discusses social identity theory (SIT) and the social identity analytical method (SIAM), as well as the emerging but relevant hive theory, in order to describe how and why vulnerable individuals radicalize.

In assessing an individual’s motivation to seek a certain in-group, the context that shapes the individual’s need to belong is a crucial factor. SIT is a theory that allows for understanding relationships between groups and how these relationships shape individual behavior within groups.⁴⁷ The theory suggests that belonging to a group, the *in-group*, can affect one’s self-image and how one feels about that self-image. Whether those feelings are positive or negative, such as pride or shame, depends not only on the in-group’s own achievements but also on comparisons with groups to which one does not belong, or *out-groups*. Human beings have a need for their social identities to be positive, and groups have an inbuilt need for being positively evaluated, or else they may lose members and

⁴⁵ Cullings, 28.

⁴⁶ Counter Extremism Project, *James Mason’s Siege: Ties to Extremists* (New York: Counter Extremism Project, 2019), <https://www.counterextremism.com/james-masons-siege-ties-to-extremists>.

⁴⁷ Anders Strindberg, *Social Identity Theory and the Study of Terrorism and Violent Extremism* (Stockholm: Swedish Defense Research Agency, 2020), 26.

disintegrate.⁴⁸ This means that people are drawn to groups that they believe can provide a positive social identity to “people like them.” It also means that once people are in a group and compare it to an out-group, the evaluation is inherently discriminating in favor of the in-group. In times of conflict, these evaluations lead to an exaggerated view of the positive qualities of the in-group and its members and also of the negative characteristics of the out-group and its members.⁴⁹ This provides motivation for continued conflict that, in turn, forms various patterns of behavior that can be analyzed and understood.

The social-psychological factors of SIT help explain the underlying influences on individuals who seek to develop an alt-right in-group and out-group narrative to validate their beliefs and externalize new social norms—they seek a community and search for extremists or extremism on the DME. This motivation is shaped by his or her perceived “positive value” of self, and that definition of self is shaped by—but not limited to—political, historical, cultural, or economic contexts.⁵⁰ The individual will rely on the in-group to indicate how to relate and interact with out-groups. Conversely, since the in-group requires a positive socially constructed identity, it relies on the individual to provide positive value to the group, as the “individual contributes to the identity of the group.”⁵¹ Also, it is worth noting that no one belongs to a single in-group, but it is necessary “to understand his or her dominant sources of social identification, and how they compare in status and strength with other competing sources of social identification.”⁵²

In their book *A Practitioner’s Way Forward*, David Brannan, Kristin Darken, and Anders Strindberg have sought to adapt SIT-based analysis to practitioners’ needs by adding four “analytical markers” based on anthropological research into small groups in

⁴⁸ Strindberg, *Social Identity Theory and the Study of Terrorism*, 27; William A. Gamson, “Commitment and Agency in Social Movements,” *Sociological Forum* 6, no. 1 (1991): 27–50, <https://doi.org/10.1007/BF01112726>.

⁴⁹ Strindberg, *Social Identity Theory and the Study of Terrorism*, 14.

⁵⁰ David Brannan, Kristin Darken, and Anders Strindberg, *A Practitioners Way Forward: Terrorism Analysis* (Salinas, CA: Agile Press, 2014), 26, 55.

⁵¹ Brannan, Darken, and Strindberg, 51.

⁵² Brannan, Darken, and Strindberg, *A Practitioners Way Forward*, 55; Michael A. Hogg and Dominic Abrams, *Social Identifications: A Social Psychology of Intergroup Relations and Group Processes* (London: Routledge, 1988), 12–16.

conflict with other groups.⁵³ This approach is referred to as the social identity analytical method (SIAM).⁵⁴ The markers are particular aspects of group dynamics that are “highly relevant when analyzing . . . strong collective identity,” and two are particularly useful in this thesis.⁵⁵

One of these markers is *honor and shame*, and the model calls for identifying behaviors that embody the effort to avoid shame and demonstrate honor. Examples of this dynamic are recent domestic terrorist attacks by such perpetrators as Dylann Roof, John Earnest, and Patrick Crusius. The *honor challenge* is the quintessential premise of these attacks. Each of these domestic terrorists internalized the fear that his social status was in jeopardy by the mere existence and elevation of minority groups, be they ethnic or religious, in his country. Through the DME, terrorists socialize their beliefs or observations and validate the legitimacy of the in-group’s beliefs through the consumption of alt-right extremist propaganda and socially constructed conspiracy theories. Honor and status within their homelands are called into question when the coexisting population is ethnically, racially, and culturally different from the organic population of the homeland.

Another analytical marker is the *limited good*, which “is intimately connected to the patron and client relationship.”⁵⁶ The basic assumption is that small clandestine militant groups such as terrorist groups believe that they are competing with out-groups for limited tangible or intangible goods, such as land, status, and political power, and the model calls for identifying such behavior. An example of this dynamic comes from the identitarian worldview. In his book *Why We Fight*, Guillaume portrays this tension as a clash between Europe and the Muslim world—“an overcrowded humanity, crammed on a sick planet, engag [ing] its decisive struggle for survival.”⁵⁷ Some of the more recent transnationally influenced domestic terrorists have made the same assertion that

⁵³ Brannan, Darken, and Strindberg, *A Practitioners Way Forward*.

⁵⁴ David Brannan, Kristin Darken, and Anders Strindberg, *A Practitioners Way Forward: Terrorism Analysis*, 2nd ed. (Salinas, CA: Agile Press, forthcoming).

⁵⁵ Brannan, Darken, and Strindberg.

⁵⁶ Brannan, Darken, and Strindberg, 79.

⁵⁷ Faye, *Why We Fight*, 38.

globalization will accelerate the scarcity of resources. Both Brenton Tarrant and Patrick Crusius, concerned about “green nationalism,” expressed the need to reduce the consumption of limited goods—natural resources—by immigrants, who they considered leeches on society by their mere coexistence with the white race.⁵⁸

Just as the medium in which extremists communicate has changed, so has their social commingling. Terrorism expert Daniel Koehler describes how previously unassociated extremist activists developed in-group networks and organized around shared opposition to democratic governments and immigration to commit spontaneous REMVE acts.⁵⁹ His hive terrorism theory attempts to explain the recent increase in REMVE sentiment and violence. In studying this emerging dynamic, Koehler examined the 2015–2016 refugee crisis in Germany. He identified the unusual intermixing of long-term radicalized extremists and individuals with no known nexus to REMVE activities or groups. Koehler’s study suggests that the most influential aspect of this developing trend was governing authorities’ unwillingness to label acts of extremism as terrorism, which created a void filled by new societal and legal norms. Kohler posits that if acceptable behavior is not defined by social or legal frameworks, the threshold for contact between ordinary people and highly radicalized extremists is lowered, and that contact becomes more fluid and acceptable. Domestic terrorism does not look or operate as it did in 1995 or even 2011, so understanding the legal constraints of investigating and prosecuting domestic terrorism is vital to mitigating the REMVE threat. The legal constraints are discussed in greater detail in Chapter III.

C. DIGITAL MEDIA ECOSYSTEM

Since 2008, technology and digital platforms have changed how the world communicates and receives information. The introduction of the smartphone made real-time access to news, blogs, and social media—once unimaginable—available anytime.

⁵⁸ Brenton Tarrant, *The Great Replacement* (self-pub., 2019); Patrick Crusius, “The Inconvenient Truth,” *Randall Packer* (blog), accessed March 19, 2021, <https://randallpacker.com/wp-content/uploads/2019/08/The-Inconvenient-Truth.pdf>.

⁵⁹ Daniel Koehler, “Recent Trends in German Right-Wing Violence and Terrorism: What Are the Contextual Factors behind ‘Hive Terrorism’?,” *Perspectives on Terrorism* 12, no. 6 (2018): 72–88.

Building on David Rapoport's concept of the four waves of modern terrorism, scholars postulate an emerging trend in contemporary violent extremism: the fifth wave of terrorism.⁶⁰ The fifth wave shifts the terrain from in-person events to the DME to radicalize and build a sense of belonging and a social media-derived identity.⁶¹ The DME—which Jessie Daniels, Alice Marwick and Rebecca Lewis, and others refer to as a collection of echo chambers—is an assembly of transnational individuals espousing racially or ethnically racist ideologies—for example, the great replacement, white genocide, cultural Marxism, or accelerationism—on multiple digital platforms.⁶² These theories all share the fear of extinction of the white race through immigration and multiculturalism.⁶³ Thus, the DME has shifted how people congregate, radicalize, and develop their own social identity.

Edwin Hodge and Helga Hallgrimsdottir explore this concept in describing the social movement of the DME as borderless, abstract, and fluid.⁶⁴ This movement is geographically nationless and does not seek a permanent home but thrives in the dialogue of extremist ideology posted on imageboards, chans, and blogs. Likewise, in her paper, Jessie Daniels postulates that simple searches in the DME confirm racist perspectives and amplify those perspectives through algorithms that direct individuals to like-minded sites and discussion boards.⁶⁵ Finally, in a recent journal article, terrorism scholars Seth Jones,

⁶⁰ Jerrold M. Post, Cody McGinnis, and Kristen Moody, "The Changing Face of Terrorism in the 21st Century: The Communications Revolution and the Virtual Community of Hatred," *Behavioral Sciences & the Law* 32, no. 3 (2014): 306–34, <https://doi.org/10.1002/bsl.2123>.

⁶¹ Post, McGinnis, and Moody.

⁶² Jessie Daniels, "The Algorithmic Rise of the 'Alt-Right,'" *Contexts* 17, no. 1 (February 2018): 60–65, <https://doi.org/10.1177/1536504218766547>; Alice Marwick and Rebecca Lewis, *Media Manipulation and Disinformation Online* (New York: Data & Society Research Institute, 2017). In this thesis, the digital media ecosystem comprises mainstream social media applications, such as Facebook, Twitter, and alternative Gab; imageboards, such as 8chan, 4chan, and 8kun; voice and chat platforms, such as Discord; cloud-based encrypted instant messaging over internet-protocol service, such as Telegram; video-sharing sites, such as YouTube; information aggregators, such as Reddit; and mainstream mass media, such as CNN and Fox News.

⁶³ Daniel Koehler, "The Halle, Germany, Synagogue Attack and the Evolution of the Far-Right Terror Threat," *CTC Sentinel* 12, no. 11 (December 2019), <https://ctc.usma.edu/halle-germany-synagogue-attack-evolution-far-right-terror-threat/>.

⁶⁴ Edwin Hodge and Helga Hallgrimsdottir, "Networks of Hate: The Alt-Right, 'Troll Culture', and the Cultural Geography of Social Movement Spaces Online," *Journal of Borderlands Studies* (2019): 1–18, <https://doi.org/10.1080/08865655.2019.1571935>.

⁶⁵ Daniels, "The Algorithmic Rise of the 'Alt-Right,'" 60–65.

Catrina Doxsee, and Nicholas Harrington assert that the DME will remain a constant in the violent extremist milieu, as it is a vital medium for domestic terrorists to collaborate, radicalize, reach an otherwise inaccessible population, and coordinate around the world.⁶⁶ This distinction is important because it is apparent the DME plays a strong role in perpetuating the movement in virtual space.

The make-up of the DME is fundamental to its exploitation by extremists. The “global online hate ecology” comprises “self-organized, mesoscale clusters that interconnect to form a resilient network-of-networks of hate highways across platforms, countries and languages.”⁶⁷ Johnson et al. explain, “Current hate networks [are] rapidly rewiring and self-repairing . . . when attacked, in a way that mimics the formation of covalent bonds in chemistry.”⁶⁸ It is the electrostatic attraction of the give and take of ideas that makes the global online hate ecology work so well within the DME. While each digital platform plays a unique role in the global online hate ecology, the subparts intertwine to create the DME. If a vulnerable individual is starting the radicalization process, he or she can start with a simple Google search, just as Dylann Roof did when he searched “black on white crime.”⁶⁹ The use of social news aggregators like Reddit or the video-sharing site YouTube are easily accessible and provide readers with additional articles or videos based on their viewing history. Essentially, if a user “likes” one white nationalist video, YouTube will sustain his thirst for more.

The world of social networking services includes Facebook and its internal live-streaming platform Facebook Live; Parler, the self-dubbed “unbiased social media [with] . . . free expression without violence and no censorship”; and Gab, “the free speech

⁶⁶ Seth G. Jones, Katrina Doxsee, and Nicholas Harrington, *The Right-Wing Terrorism Threat in Europe* (Washington, DC: Center for Strategic and International Studies, 2020), <https://www.csis.org/analysis/right-wing-terrorism-threat-europe>.

⁶⁷ N. F. Johnson et al., “Hidden Resilience and Adaptive Dynamics of the Global Online Hate Ecology,” *Nature* 573, no. 7773 (September 2019): 1, <https://doi.org/10.1038/s41586-019-1494-7>.

⁶⁸ Johnson et al., 1.

⁶⁹ Dylann Roof, “Full Text of Charleston Suspect Dylann Roof’s Apparent Manifesto,” Talking Points Memo, June 20, 2015, <https://talkingpointsmemo.com/muckraker/dylann-roof-manifesto-full-text>.

alternative to Twitter” and “defend [er] of free expression and individual liberty online.”⁷⁰ These social networking services are used to connect individuals with similar interests and hobbies. Once a connection has been made through a digital platform, invited users can talk in a secure manner through messenger encryption services such as Telegram, Threema, or Wire. Combine these mainstream platforms with dark web imageboards on 8chan, 4chan, or 8kun platforms, and a vulnerable individual has the ability to lose oneself in accelerationism, ethnonationalism, white nationalism, or variants of Marxism.

Violent extremists aim not only to push their message across the global online hate ecology but also to get mainstream media, such as CNN, NBC, or the *New York Times*, to discuss their ideas and use their language in national-level news pieces, thereby expanding their reach exponentially. One example of this need for notoriety was Brenton Tarrant’s use of Facebook live-streaming during his two mass attacks of mosques in Christchurch, New Zealand, in 2019. As Jason Burke notes, “The point of the attack [was] not just to kill Muslims, but to make a video of someone killing Muslims.”⁷¹ The original Christchurch video was viewed by fewer than 200 people, but the cascading effect was substantial. Within the first 24 hours, Tarrant’s attack video had been shared on Facebook more than 1.5 million times.⁷² In an effort to contain the flow of hate across the DME, Facebook blocked approximately 1.2 million video uploads and removed 300,000 shared copies, and this was just one platform’s response.⁷³

The SITE Intelligence Group is also finding evidence of influence of the DME on REMVE actors and organizations. As uncovered in the SITE Intelligence Group’s research

⁷⁰ “Home Page,” Parler, accessed December 23, 2020, <https://parler.com/auth/access>; Jane Coaston, “Gab, the Social Media Platform Favored by the Alleged Pittsburgh Shooter, Explained,” Vox, October 29, 2018, <https://www.vox.com/policy-and-politics/2018/10/29/18033006/gab-social-media-anti-semitism-neo-nazis-twitter-facebook>.

⁷¹ Jason Burke, “Technology Is Terrorism’s Most Effective Ally. It Delivers a Global Audience,” *Guardian*, March 17, 2019, <https://www.theguardian.com/commentisfree/2019/mar/17/technology-is-terrorism-s-most-effective-ally-it-delivers-a-global-audience>.

⁷² Drew Harwell, “Fewer Than 200 People Watched the New Zealand Massacre Live. A Hateful Group Helped It Reach Millions,” *Washington Post*, March 19, 2019, <https://www.washingtonpost.com/technology/2019/03/19/fewer-than-people-watched-new-zealand-massacre-live-hateful-group-helped-it-reach-millions/>.

⁷³ Harwell.

on social media and the far-right, “Neo-Nazi and white nationalist groups now have in Telegram a centralized operational venue to network, recruit and distribute attack manuals, just as the Islamic State had for years.”⁷⁴ The use of the DME to communicate with like-minded individuals, radicalize an otherwise unreachable cohort, and connect with both U.S.- and foreign-based domestic terrorists is one of the aspects that makes this new generation of REMVE actors or organizations such an exponentially difficult threat to quantify.

D. TRANSNATIONAL CONNECTIONS

One foreign terrorism trend being emulated by geographically disparate domestic violent extremists is the cross-pollination of ideology and inspiration across international borders. On October 30, 2019, FBI Director Christopher Wray testified before the House Homeland Security Committee that some U.S.-based domestic terrorists are connecting with overseas counterparts to discuss like-minded topics and traveling overseas to receive training.⁷⁵ FBI Director Wray also highlighted in his testimony that the FBI had identified a new phenomenon: REMVE actors inspired by overseas events and “communicating with each other in a more informal way online or in some other way inspiring each other.”⁷⁶ Following up on his previous testimony, in early 2020, Wray continued to trumpet the REMVE threat and the need to call REMVEs a “national threat priority.”⁷⁷

These overseas communications and collaboration are demonstrated by the transnational alliances the AWD and the Base have established through online discussions. Through shared ideology and objectives, the AWD has cultivated an organizational following and established branches in Germany with Atomwaffen Duetschland and the

⁷⁴ Rita Katz, “Opinion: Telegram Has Finally Cracked Down on Islamist Terrorism. Will It Do the Same for the Far-Right?,” *Washington Post*, December 5, 2019, <https://www.washingtonpost.com/opinions/2019/12/05/telegram-has-finally-cracked-down-islamist-terrorism-will-it-do-same-far-right/>.

⁷⁵ Devlin Barrett, “FBI Director: Some Domestic Terrorism Suspects Travel Overseas for Training,” *Washington Post*, October 30, 2019, https://www.washingtonpost.com/national-security/fbi-director-some-domestic-terror-suspects-travel-overseas-for-training/2019/10/30/0c3a6048-fb2f-11e9-8190-6be4deb56e01_story.html.

⁷⁶ Barrett.

⁷⁷ Wray, “FBI Oversight.”

Sonnenkrieg Division (SKD).⁷⁸ The AWD has expanded to other countries such as the United Kingdom with allegiances with National Action and the SKD. Other allegiances have been established with the Feuerkrieg Division (FKD) in Estonia, the Antipodean Resistance in Australia, and Northern Order in Canada. The Base has expanded its affiliation in Canada, Finland, and Germany with the FKD.⁷⁹

U.S.-based REMVEs and overseas violent extremists may be geographically dispersed, but their ideology is not. As highlighted in Tim Lister’s piece, “The message of the far-right in Ukraine certainly struck a chord among white supremacists in the United States.”⁸⁰ As Lister explains in his article for *CTC Sentinel*, this connection was documented through the anonymously leaked *Iron March* posts that described the transatlantic contributors’ mutual appreciation of their “shared racial identity.”⁸¹ One such documented connection, reported by terrorism experts, was between an Azov Battalion representative and the AWD’s Brandon Russell, who requested “some advice from you about my militia that I lead in the U.S.”⁸²

The current feeling among REMVE groups is a sense of uncertainty and anxiety about the future of society; furthermore, there appears to be a connection between the narrative of globalization and migration making Caucasians the new minority and the violence that ensues from that narrative. In his journal article, Lister notes, “The far-right extremist groups . . . rarely make explicit and specific calls for violence, but sometimes their sympathizers devise serious plots and carry out attacks, inspired by online forums, the ‘manifestos’ of others, and previous attacks.”⁸³

The transnational connections of disgruntled organizations have culminated in an ultra-nationalist movement that has not only validated violent extremists but also attracted

⁷⁸ “Atomwaffen Division (AWD),” Janes, June 24, 2020, <https://customer.janes.com/>.

⁷⁹ “The Base,” Janes, July 30, 2020, <https://customer.janes.com/>.

⁸⁰ Tim Lister, “The Nexus between Far-Right Extremists in the United States and Ukraine,” *CTC Sentinel* 13, no. 4 (April 2020).

⁸¹ Lister.

⁸² Lister.

⁸³ Lister.

those on the fringes of the movement to buy into the theory of the great replacement and accelerationism—enticing them to take action when they normally would not. Terrorism expert Paul Jackson supports this concept in his white paper for the Program on Extremism at George Washington University. Jackson writes, “Such groups are not developing centrally directed terrorist attacks. Rather their role in violent radicalization is to help intensify and deepen wider vulnerabilities among some of their members.”⁸⁴ Jackson’s position is supported by Ramon Spaaij’s work, which “stresses this is significant as ideology can provide the moral authority often needed for people to feel the necessity to carry out a violent attack.”⁸⁵

All of this leads to the fact that violent extremists provide the ideas, allow the ideas to marinate, and feign surprise when someone acts violently toward their perceived out-group narratives, focused on minorities; feminists; Jews; and the lesbian, gay, bisexual, transgender, queer (LGBTQ) community. In his thesis on identitarian violence, Christopher Adamczyk argues, “Identitarianism is a complex socio-political worldview . . . [an] inherently violent movement with the sole mission of ensuring European culture and ethnicity survive.”⁸⁶ Adamczyk posits that the use of violence by identitarians is not only a form of action but also a perspective through which they view their ethnocentric struggle.⁸⁷ He explains that this “culture of violence, combined with the ever-present risk of erasure, is the primary motivator.”⁸⁸ Homegrown violent extremists are using the legal blanket of the First Amendment to spread vitriol and then shield themselves from owning the violence they incite. It is time that U.S. authorities transition from viewing violent extremists as a First Amendment issue to concentrating on the deeds committed because of their words.

⁸⁴ Paul Jackson, *Transnational Neo-Nazism in the USA, United Kingdom and Australia* (Washington, DC: George Washington University, Program on Extremism, 2020), 28, <https://extremism.gwu.edu/sites/g/files/zaxdzs2191/f/Jackson%20-%20Transnational%20neo%20Nazism%20in%20the%20USA%2C%20United%20Kingdom%20and%20Australia.pdf>.

⁸⁵ Jackson, 24.

⁸⁶ Christopher J. Adamczyk, “Gods versus Titans: Ideological Indicators of Identitarian Violence” (master’s thesis, Naval Postgraduate School, 2020), 86, <http://hdl.handle.net/10945/66032>.

⁸⁷ Adamczyk, 86.

⁸⁸ Adamczyk, 86.

III. LEGAL CONSIDERATIONS

Even as the federal government acknowledges that REMVE attacks, committed domestically by U.S. citizens, well may constitute terrorism, U.S. law enforcement and the Intelligence Community are hindered in leveraging certain tools or approaches regularly used to mitigate FTO threats. Specifically, because domestic REMVE organizations usually comprise U.S. citizens, who are protected by legal rights that do not extend to foreign actors, they are harder to surveil, investigate, and prosecute.⁸⁹

The debate about mitigating the threat of domestic violent extremists inevitably stagnates when scholars begin to discuss how to counter the extremism threat. Debates begin and end with the Constitution of the United States—more specifically, the First, Second, and Fourth Amendments provide citizens with the rights used to answer why so little can be done to mitigate this threat. To be sure, domestic terrorism is defined similarly to international terrorism. Both definitions include the following elements:

[They] (1) involve violent acts or acts dangerous to human life, (2) violate federal or state criminal laws or would do so if committed in the jurisdiction of the United States or any state, [and] (3) appear intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnapping.⁹⁰

The chief difference is the fourth element, which speaks directly to the location of the terrorism; for international terrorism, it “occur [s] primarily outside the territorial jurisdiction of the United States, or transcend [s] the national boundaries.”⁹¹ Domestic terrorism, on the other hand, is “primarily within the territorial jurisdiction of the United States.”⁹² The other chief difference between international and domestic terrorism is that international terrorism has been criminalized at the federal level whereas domestic terrorism has been criminalized only in a handful of states; it is not a federal crime, per se.

⁸⁹ Heller, “Designating Domestic Terrorist Individuals or Groups.”

⁹⁰ 18 U.S.C. § 2331.

⁹¹ 18 U.S.C. § 2331(1)(C).

⁹² 18 U.S.C. § 2331(5)(C).

Multiple sources have discussed the different aspects of U.S. citizens' right to assemble, speak freely, and be free of overreaching surveillance by their government. Scholars agree that balancing privacy and civil liberties with national security measures is precarious. As Bryan J. Ballantyne suggests, the historical examples of the unchecked authority of the U.S. government to surveil radical groups relate to the current social political climate.⁹³ Ballantyne supports his argument with a socio-political study by Best, Kreuger, and Pearson-Merkowitz, which concludes that "a significant number of ordinary Americans feel anxious about domestic surveillance and that it has a negative impact on their attitudes regarding domestic counterterrorism policy."⁹⁴ Ballantyne elaborates that when the federal government believes it is in the best interest of U.S. national security, constitutional rights have historically been infringed to protect the populace.

Conversely, David E. Heller speaks to Americans' willingness to surrender some liberties for safety.⁹⁵ Heller's research explains that a "population that has been victimized by a terrorism event will display various levels of resiliency and [political] tolerance in order to cope with the present and future."⁹⁶ He summarizes that the U.S. citizens' tolerance of infringements of privacy and freedom will fluctuate somewhere between societal norms and legal parameters.⁹⁷ Scholars who analyzed the social-psychological environment in the aftermath of 9/11 support this point. For example, Mullen et al. posit, "After 9/11 Americans were willing to sacrifice some of their civil liberties."⁹⁸ Boyne goes a step further, maintaining that quintessential U.S. values will be revealed in the way the country balances civil liberties and protection for its people.⁹⁹ How, if at all, does the discussion change when terrorists are U.S. homegrown violent extremists affiliated with transnational domestic terrorist organizations?

⁹³ Bryan J. Ballantyne, "Social Movements and Social Media—Surveillance and Unintended Consequences" (master's thesis, Naval Postgraduate School, 2017), <http://hdl.handle.net/10945/56855>.

⁹⁴ Ballantyne, 17.

⁹⁵ Heller, "Designating Domestic Terrorist Individuals or Groups."

⁹⁶ Heller, 51.

⁹⁷ Heller, 37.

⁹⁸ Heller, 37.

⁹⁹ Heller.

This chapter describes the federal U.S. response to and/or mitigation of threats and acts of international and domestic terrorism. Specifically, it reveals how this response is bifurcated in terms of definitional and legal frameworks, which describe who is authorized to act on behalf of the government and how acts and threats may be investigated and possibly prosecuted. The chapter also discusses the ways in which the Intelligence Community (IC) or the Department of Defense (DOD) can legally assist in investigations. It then provides a short history of domestic surveillance of domestic groups and concludes with a comparative case study that demonstrates the differences between international and domestic terrorism investigations and prosecutions.

A. BIFURCATION

Several divisions, broadly related, bifurcate the U.S. counterterrorism response—surveillance, investigation, or prosecution. Perhaps the most significant bifurcation lies in the Constitution; other legal distinctions flow from it. This section examines the bases and forms of this bifurcation, which, in turn, establish very different options and regimes.

1. First and Fourth Amendment Protections

Citizens of the United States or resident aliens are guaranteed civil liberty protections under the U.S. Constitution that are not provided to nonresident aliens—the Constitution establishes the law of the land only in the United States. By and large, the First and the Fourth Amendments prominently shape how the United States mitigates terrorism, particularly the U.S. government’s bifurcation of violent extremists. That is, domestic terrorists are viewed and analyzed under the First Amendment while terrorists with international connections are analyzed under the Fourth Amendment.

Free expression—and the other elements of the First Amendment—were sufficiently important to the Founding Fathers that they made it top priority in the Bill of Rights, and it remains a fairly absolute freedom in U.S. practice today.¹⁰⁰ The constitutional requirements for any measure that might limit a citizen’s First Amendment freedoms are hard for any law or agency to acquiesce. Violent extremists are well aware of

¹⁰⁰ U.S. Const., amend. I.

their First Amendment rights and use those protections to insulate themselves from U.S. government interference.

As established in the First Amendment, “Congress shall make no law . . . abridging the freedom of speech, or of the press; of the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”¹⁰¹ With this protection, U.S. citizens can say anything, even vitriolic speech that intimidates and coerces the masses, with very little control by the government.¹⁰²

Among others, extremists in and of the United States rely on this protection to shield their gatherings, publications, and other communications from all but the most circumspect official oversight or intervention. Take, for example, the Unite the Right rally in Charlottesville, Virginia, in 2017. Protesters from the alt-right, white nationalists, and Klan members were allowed to protest over the removal of Confederate General Robert E. Lee’s statue and their perceived displacement of position—and, therefore, power—in modern society.¹⁰³ While protesting, they were free to express all manner of hateful speech, such as the Nazi-affiliated slogan “blood and soil,” and display such white nationalist symbols as Confederate flags and Nazi symbols—even though these emblems provoked outrage or fear among other citizens, for example, residents of the areas where the protests took place.¹⁰⁴ Couching their chants and assembly as political—and occasionally religious—expression, REMVEs wrap themselves in a thick layer of First Amendment protection.

George Joseph documented for ProPublica the leaked chat room conversations of REMVE actors on Discord that revealed an anticipation and desire for violence before the

¹⁰¹ U.S. Const., amend. I.

¹⁰² See Appendix A for a detailed description of the legal precedent.

¹⁰³ “Two Years Ago, They Marched in Charlottesville. Where Are They Now?,” *ADL Blog*, August 8, 2019, <https://www.adl.org/blog/two-years-ago-they-marched-in-charlottesville-where-are-they-now>.

¹⁰⁴ Meghan Keneally, “What to Know about the Violent Charlottesville Protests and Anniversary Rallies,” ABC News, August 8, 2018, <https://abcnews.go.com/US/happen-charlottesville-protest-anniversary-weekend/story?id=57107500>.

Unite the Right rally.¹⁰⁵ Contrary to the elicited desire of violence discussed on Discord, white supremacist Evan McLaren—the executive director of Richard Spencer’s National Policy Institute—insisted that “what he characterized as ‘irreverent banter’ was ‘not relevant to what happened’ and did not spur the violence in Charlottesville.”¹⁰⁶ As alt-right, white supremacists, or whatever name they choose, newly energized racists are quick to clarify that their words are just words; furthermore, they deflect any responsibility for the violent actions their words incite.

To be sure, the First Amendment does not protect violence, not least because, in most instances, the First Amendment focuses on speech and, to some extent, expressive action.¹⁰⁷ In the case of Sheik Abdel Rahman, when national security was confronted with a call to seditious action, the U.S. government shifted the boundary between speech and action.¹⁰⁸ In 1993, the so-called Blind Sheik was indicted on sedition and conspiracy in relation to “conspiring to carry out a terrorist campaign of bombings and assassinations intended to destroy the United Nations and New York landmarks.”¹⁰⁹ As Joseph Fried described, Abdel Rahman was the ideological leader behind the first World Trade Center attack; bombing plans targeting the United Nations headquarters, Lincoln and Holland tunnels, George Washington Bridge, and 26 Federal Plaza; and the assassination of Rabbi Meir Kahane, founder of the Jewish Defense League.¹¹⁰ Sheik Rahman’s defense team attempted to have the indictment against him dismissed based on the premise that Rahman had been performing pastoral duties, albeit as “subversive sermons and religious guidance

¹⁰⁵ George Joseph, “White Supremacists Joked about Using Cars to Run Over Opponents before Charlottesville,” ProPublica, August 28, 2017, <https://www.propublica.org/article/white-supremacists-joked-about-using-cars-to-run-over-opponents-before-charlottesville?token=jg6nGk6aRoymOqJmDTStHj1PIBKaGEW9>.

¹⁰⁶ Joseph.

¹⁰⁷ See Appendix B for a detailed description of the legal precedent.

¹⁰⁸ *United States v. Rahman*, No. S3 93 Cr. 181 (MBM), WL 388927 (S.D.N.Y. 1994).

¹⁰⁹ Joseph P. Fried, “The Terror Conspiracy: The Overview: Sheik and 9 Followers Guilty of a Conspiracy of Terrorism,” *New York Times*, October 2, 1995, ProQuest.

¹¹⁰ Fried.

by the cleric to members of his flock.”¹¹¹ Even after acknowledging the subversive nature of Rahman’s sermons, “the defense contended Mr. Abdel Rahman had only been exercising his free-speech rights.”¹¹² The motion to dismiss was denied, and District Judge Mukasey, quoting the finding in *United States v. Varani*, ruled that “speech is not protected by the First Amendment when it is the very vehicle of the crime itself.”¹¹³ In the end, even religious speech is not protected when it leads to action.

Another way that terroristic speech and assembly may fall out from under the broad protections of the First Amendment is when such expression is deemed to constitute “material support” for terrorists or other enemies of the United States.¹¹⁴ According to federal statute, providing material support includes, but is not limited to, tangible or intangible property, training, expert advice, or assistance.¹¹⁵ Expert advice or assistance specifically refers to “advice or assistance derived from scientific, technical or other specialized knowledge.”¹¹⁶ Examples include knowledge in building a bomb or advice on how to circumvent U.S. surveillance.

Freedom of speech is a guaranteed right under the Constitution; however, the violence it supports and enables is what truly matters. In 2010, the U.S. Supreme Court heard the case of *Holder v. Humanitarian Law Project*, in which the Court decided the U.S. government can “suppress political expression and association in the name of national security.”¹¹⁷ The facts of the *Humanitarian Law Project* case revolve around plaintiffs who violated the Antiterrorism and Effective Death Penalty Act (AEDPA), amended by the Intelligence Reform and Terrorism Prevention Act (IRTPA), by knowingly providing

¹¹¹ John Alan Cohan, “Seditious Conspiracy, the Smith Act, and Prosecution for Religious Speech Advocating the Violent Overthrow of Government,” *Journal of Civil Rights and Economic Development* 17, no. 2 (2003): 202.

¹¹² Fried, “The Terror Conspiracy.”

¹¹³ *United States v. Rahman*, No. S3 93 Cr. 181 (MBM), WL 388927, at 1.

¹¹⁴ 18 U.S.C. § 2331; 18 U.S.C. § 2339A (2009), <https://www.law.cornell.edu/uscode/text/18/2339A>; 18 U.S.C. § 2339B (2015), <https://www.law.cornell.edu/uscode/text/18/2339B>.

¹¹⁵ 18 U.S.C. § 2339A.

¹¹⁶ 18 U.S.C. § 2339A.

¹¹⁷ David Cole, “The First Amendment’s Borders: The Place of *Holder v. Humanitarian Law Project* in First Amendment Doctrine General Essay,” *Harvard Law & Policy Review* 6, no. 1 (2012): 149.

material support or resources to two designated terrorist organizations—the Kurdistan Workers Party (PKK) and the Liberation Tigers of Tamil Eelam (LTTE).¹¹⁸ In Roberts’s majority opinion,

Plaintiffs claimed that the material-support statute was unconstitutional on two grounds: First, it violated their freedom of speech and freedom of association under the First Amendment, because it criminalized their provision of material support to the PKK and LTTE, without requiring the Government to prove that plaintiffs have a specific intent to further the unlawful ends of those organizations. . . . Second, plaintiffs argued that the statute was unconstitutionally vague.¹¹⁹

The material support or resources in question involved the plaintiffs’ “want [ing] to ‘train members of [the] PKK on how to use humanitarian and international law to peacefully resolve disputes’ and ‘teach PKK member how to petition various representative bodies such as the United Nations for relief.’”¹²⁰

In its arguments, the court argued it is in the compelling interest of the United States to prevent terrorism. Whereas the AEDPA and IRTPA “mostly pertains [*sic*] to conduct, [conversely] it also covers some speech because the conduct to which the statute applies consists of communicating a message.”¹²¹ The crux of the ruling is “whether this interest [national security] justifies banning the speech of people who claim that they intend to advance on the non-terrorist objectives of the designated organizations.”¹²² The conflict discussed in the court decision was how one differentiates between the terrorist objectives and the non-terrorist objectives. The court answered, “In most situations, foreign terrorist groups do not separate social and political components from their terrorist enterprise.”¹²³ In other words, despite the plaintiffs’ altruistic goals of providing resources that taught recipients how to file for relief, their expert advice, in fact, materially supported both the

¹¹⁸ Holder v. Humanitarian Law Project, 561 U.S. 1 (2010).

¹¹⁹ *Humanitarian Law Project*, 561 U.S. at 10–11.

¹²⁰ *Humanitarian Law Project*, 561 U.S. at 21–22.

¹²¹ “Holder v. Humanitarian Law Project, 561 U.S. 1 (2010),” Justia, accessed March 21, 2021, <https://supreme.justia.com/cases/federal/us/561/1/#tab-opinion-1963363>.

¹²² Justia

¹²³ Justia.

non-terroristic and terroristic objectives of designated terrorist organizations. As David Cole emphasizes, “The Court upheld the criminalization of speech . . . on the ground that such speech might unintentionally assist a third party in criminal wrongdoing.”¹²⁴ First Amendment protections are the most fundamental rights U.S. citizens have; however, with the *Humanitarian Law Project* ruling, the court subjugated constitutional rights to national security interests.

The Fourth Amendment protects against “unreasonable” search or seizures, including electronic surveillance within the United States. Specifically, it states, “The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”¹²⁵ In other words, with some notable exceptions, the Fourth Amendment requires that law enforcement secure a warrant based on probable cause for a search or seizure of a person, thing, or property to be legal.¹²⁶

The Fourth Amendment focuses exclusively, however, on the “rules of the game” for criminal prosecution—when and how the state may bring the full force of its coercive power to bear against a citizen or resident alien. If a court finds that the government acted improperly in a search or seizure, the state cannot use the ill-gotten evidence against the individual it seeks to prosecute.¹²⁷ The penalty can be damaging to a particular case, as the doctrine of the “fruit of the poisonous tree” is an exclusionary rule that makes any evidence the state obtains through an illegal search inadmissible, for example, executing a wiretap

¹²⁴ Cole, “The First Amendment’s Borders,” 149.

¹²⁵ U.S. Const., amend IV.

¹²⁶ “Searches and Seizures Pursuant to Warrant,” Legal Information Institute, accessed October 30, 2020, <https://www.law.cornell.edu/constitution-conan/amendment-4/searches-and-seizures-pursuant-to-warrant>. Exceptions to the Fourth Amendment’s “reasonable search and seizure” include public health and border search authority, which is “pursuant to the longstanding right of the sovereign to protect itself by stopping and examining persons and property crossing into this country.” “Border Searches,” Legal Information Institute, accessed November 7, 2020, <https://www.law.cornell.edu/constitution-conan/amendment-4/border-searches>.

¹²⁷ “Fruit of the Poisonous Tree,” Legal Information Institute, accessed November 7, 2020, https://www.law.cornell.edu/wex/fruit_of_the_poisonous_tree.

without a search warrant.¹²⁸ Citizens, including domestic terrorists, are protected by the Fourth Amendment's requirement that a "reasonable" search and seizure be based on probable cause. Because no federal statutes criminalize domestic terrorism, the affiliation alone does not amount to probable cause.

To the extent that the Constitution applies to international terrorism (or crime), the habits of the Fourth Amendment come into play if the case involves "acts for or on behalf of a foreign power which engages in clandestine intelligence activities in the United States contrary to the interests of the United States."¹²⁹ Here, the latitude granted by a long-established national security exception to the Fourth Amendment allows for "warrantless electronic surveillance of certain subjects under certain circumstances."¹³⁰ In *Katz v. United States*, the court opined, "Wiretapping to protect the security of the Nation has been authorized by successive Presidents. The present Administration would apparently save national security cases from restrictions against wiretapping."¹³¹ In an effort to afford U.S. law enforcement maximum latitude while still protecting the core rights that the Fourth Amendment covers, "Congress . . . provid [ed] for a special court to hear requests for warrants for electronic surveillance in foreign intelligence situations . . . provided that the communications to be monitored are exclusively between or among foreign powers."¹³²

¹²⁸ *Nardone v. United States*, 302 U.S. 379 (1937); *Nardone v. United States*, 308 U.S. 338 (1939).

¹²⁹ Foreign Intelligence Surveillance Act of 1978, Pub. L. No. 95-511, 92 Stat. 1783 (1978), <https://www.govinfo.gov/content/pkg/STATUTE-92/pdf/STATUTE-92-Pg1783.pdf>.

¹³⁰ "Warrantless 'National Security' Electronic Surveillance," Legal Information Institute, accessed October 29, 2020, <https://www.law.cornell.edu/constitution-conan/amendment-4/warrantless-national-security-electronic-surveillance>. The Foreign Intelligence Surveillance Act authorizes the use of warrantless electronic surveillance of foreign powers or agents of a foreign power when the agent "knowingly engages in clandestine intelligence gathering activities for a foreign power which activities constitute a violation of U.S. criminal statutes; knowingly engages in sabotage or international terrorism, or activities in reparation therefore, on behalf of a foreign power." James H. McAdams III, "Foreign Intelligence Surveillance Act (FISA): An Overview" (Glynco, GA: Federal Law Enforcement Training Center, 2009), 3, https://www.fletc.gov/sites/default/files/imported_files/training/programs/legal-division/downloads-articles-and-faqs/research-by-subject/miscellaneous/ForeignIntelligenceSurveillanceAct.pdf. In *Katz v. United States*, 389 U.S. 347 (1967), the Supreme Court upheld that "the Fourth Amendment protects people, not places"; however, "there is a twofold requirement, first that a person have exhibited an actual (subjective) expectation of privacy and, second, that the expectation be one that society is prepared to recognize as 'reasonable.'"

¹³¹ *Katz v. United States*, 389 U.S. 347 (1967).

¹³² Legal Information Institute, "Warrantless 'National Security' Electronic Surveillance."

This court and its procedures were codified in the Foreign Intelligence Surveillance Act (FISA) of 1978, which authorized the collection of admissible evidence that could lead to federal terrorism and/or material support to terrorism charges brought against foreign violent extremists.¹³³ In brief, when the U.S. government assesses that national security is in jeopardy and the actors are of foreign origin, the rules and restrictions regarding some extremists tend to be less restrictive.

2. Criminalization, Designation, and Sanctions

Legal definitions and frameworks are the fundamental aspects that both blanket and bifurcate international and domestic terrorism. The legal definitions are part and parcel in how criminal law may or may not be applied and who is authorized to assist in the U.S. government. Under the current legal framework, domestic terrorism is not a stand-alone crime; such a determination requires one or more contributing or “predicate” crimes. Notably, “crimes or actions may be considered predicate acts to a larger crime if they are related to, pave the way for, or have the same or similar purpose of the larger crime.”¹³⁴ On the one hand, because the predicate crimes are themselves prosecutable, there is little incentive to bring additional terrorism charges with the predicate crimes. This distinction is important because the requirement of a crime means that ideology—arguably even terroristic intent—alone is more or less beyond the reach of the domestic criminal justice system. The legal system means to punish an act of violence, not the ideology behind the action.

In contrast, statutes and executive orders have established a robust apparatus for mitigating international terrorists; one established mechanism is the U.S. government’s designation of foreign violent extremists as terrorists. The 1996 AEDPA is a mechanism that “amends section 219 of the Immigration and Nationality Act . . . , [which] states that the Secretary of State is authorized to designate an organization as a ‘foreign terrorist

¹³³ Foreign Intelligence Surveillance Act of 1978. See *United States v. Belfield*, 692 F.2d 141 (D.C. Cir. 1982) (upholding constitutionality of disclosure restrictions in Act).

¹³⁴ “Predicate,” Legal Dictionary, October 2, 2016, <https://legaldictionary.net/predicate/>.

organization” and meets established criteria.¹³⁵ Through Executive Orders 12947 and 13224, the Treasury Department’s Office of Foreign Asset Control (OFAC) has been delegated with the responsibility of consolidating and maintaining all federal government terrorism lists. This well-established and rigorous process of categorizing, classifying, and mitigating international terrorism begins with the U.S. government’s proclamation and designation of certain individuals or organizations as terrorist organizations or specially designated terrorists; furthermore, this is a tool only available in the international terrorism milieu. Once an individual or organization has been designated a terrorist or terrorist organization, the federal government has multiple means of recourse—that were previously unavailable—including financial sanctions against those entities or denial of immigration benefits. Through the AEDPA and OFAC, the United States can limit violent extremists’ recruitment capabilities and reduce their ability to raise funds.

The process of placing individuals or organizations on the Department of State (DOS)’s FTO list or the Treasury Department’s specially designated terrorist list is an arduous and detailed task that is not done casually. During the designation process, the IC, DHS, the Department of Justice (DOJ), and the DOD assist with providing justification—derogatory information and legal grounds for the terrorism designation of subjects and/or entities.¹³⁶ All 17 IC members, including elements of the DOD’s operational and intelligence enterprises, as well as other supplemental agencies or departments, make personnel and resources available to identify, exploit, and mitigate the threat of terrorism and designate an organization an FTO; equally important is the DOS as the cornerstone of an FTO designation and a partner in international terrorism investigations.¹³⁷ The DOS’s Bureau of Intelligence and Research coordinates and consolidates the information and provides it to the secretary of state for the designation nomination.

¹³⁵ Audrey Kurth Cronin, *The “FTO List” and Congress: Sanctioning Designated Foreign Terrorist Organizations*, CRS Report No. RL32120 (Washington, DC: Congressional Research Service, 2003), 1–2, <https://apps.dtic.mil/sti/pdfs/ADA445050.pdf>.

¹³⁶ Cronin, *The “FTO List” and Congress*, 2.

¹³⁷ “Members of the IC,” Office of the Director of National Intelligence, accessed November 11, 2020, <https://www.dni.gov/index.php/what-we-do/members-of-the-ic>; “Bureau of Intelligence and Research,” Department of State, accessed October 9, 2020, <https://www.state.gov/bureaus-offices/secretary-of-state/bureau-of-intelligence-and-research/>.

The U.S. designation and sanction mechanisms involve a push–pull function; without sanctions, designation has no weight. The DOS designates organizations for the FTO list, but once a group has been designated, OFAC then blocks financial transactions and criminalizes the action of providing funding or other material support to the group.¹³⁸ Without these mechanisms in place, there would be little leverage to apply against FTOs. U.S. law enforcement and government authorities have no such consequential enforcement tool in place to leverage against domestic terrorists.

3. Intelligence and Investigations

Foreign intelligence collection is a well-established framework to collect, develop, process, and synthesize information into intelligence. If an intelligence gap or need is identified, it is defined, collected, processed, and disseminated through specialized agencies, the IC, or branches of the U.S. military. One such specialized agency is the National Counter-Terrorism Center (NCTC).¹³⁹ The NCTC delivers synthesized reporting but of a specific nature, “lead [ing] and integrat [ing] the national counter-terrorism (CT) effort by fusing foreign and domestic CT information . . . providing terrorism analysis . . . and driving the whole-of-government action.”¹⁴⁰ It is through the collection of multiple intelligence sources (signals, geospatial, and human intelligence, among others) that highly trained intelligence professionals build a picture of the threat. In addition, this compilation of intelligence could be useful to the DOS when the secretary is evaluating whether to designate an individual or an organization as a terrorist.

Conversely, investigating the domestic terrorism threat in the United States has a more limited list of participants. The *Code of Federal Regulations* deems the FBI the lead agency in a federal terrorism investigation.¹⁴¹ It has 56 field offices and two headquarters

¹³⁸ Cronin, *The “FTO List” and Congress*, 2.

¹³⁹ “Strategy,” Defense Intelligence Agency, accessed October 9, 2020, <https://www.dia.mil/About/Strategy/>.

¹⁴⁰ “Mission/Vision,” Office of the Director of National Intelligence, accessed October 9, 2020, <https://www.dni.gov/index.php/nctc-who-we-are/mission-vision>.

¹⁴¹ Nathan James and Jerome P. Bjelopera, “The Federal Bureau of Investigation: Just the Facts,” *In Focus*, May 12, 2017, 1, <https://crsreports.congress.gov/product/pdf/IF/IF10651>; Federal Bureau of Investigation: General Functions, 28 C.F.R. 0.85(l) (1969), <https://www.law.cornell.edu/cfr/text/28/0.85>.

divisions—the National Security Branch (NSB) and the Intelligence Branch—to coordinate and handle domestic terrorism investigations.¹⁴² Within the NSB is the Counterterrorism Division, which conducts Joint Terrorism Task Force (JTTF) investigations across the United States. The JTTFs integrate “groups of highly trained, locally based . . . investigators [and] analysts” to investigate both international and domestic terrorism, and to date, there are approximately 200 JTTFs around the United States that include state, local and federal agencies.¹⁴³

Another component within NSB is the Terrorist Screening Center (TSC), which is responsible for maintaining the U.S. government’s consolidated counterterrorism “watchlisting” component, the Terrorist Screening Database.¹⁴⁴ The “watchlist” is a compilation of those who have been identified via the DOS’s FTO list, the Treasury’s list of specially designated nationals, or front-line law enforcement screening or investigations. While the TSC may not apply a technique or equipment in terrorism investigations, as a support apparatus, it functions as an interdiction network to actively track and identify known or suspected terrorists.

Even in a limited way, the NCTC is a partner in mitigating domestic terrorism. The NCTC’s partnership is limited perhaps because of the founding recommendations in the 9/11 Commission’s *Final Report*. The NCTC was established with the mindset of providing a “one-stop [shop] to agencies with counterterrorism and homeland security responsibilities.”¹⁴⁵ Moreover, the NCTC was built on the foundation of the “TTIC [Terrorist Threat Integration Center] and supported by the intelligence community as TTIC [was then].”¹⁴⁶ The premise that the NCTC should emulate TTIC and expand on its reaches

¹⁴² James and Bjelopera, 1.

¹⁴³ “Joint Terrorism Task Forces,” Federal Bureau of Investigation, accessed October 10, 2020, <https://www.fbi.gov/investigate/terrorism/joint-terrorism-task-forces>.

¹⁴⁴ “Terrorist Screening Center,” Federal Bureau of Investigation, accessed October 10, 2020, <https://www.fbi.gov/about/leadership-and-structure/national-security-branch/tsc>.

¹⁴⁵ National Commission on Terrorist Attacks upon the United States, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks upon the United States* (Washington, DC: Government Printing Office, 2004), 566, <https://9-11commission.gov/report/>.

¹⁴⁶ National Commission on Terrorist Attacks upon the United States, 565.

into the IC means that the NCTC would be limited, if not restricted from assisting or participating in domestic terrorism, because of legal restrictions such as Executive Order 12333. This executive order—amended in 2004 and 2008—governs intelligence activities so as to protect civil liberties by preventing the U.S. government from collecting, surveilling, or exploiting U.S. persons’ information. Where the NCTC may be of assistance is in an international nexus to a domestic organization. To conclude, while these are necessary protections, Executive Order 12333 implicitly restricts the use of available IC and DOD intelligence resources to counter domestic terrorism or to supplement domestic intelligence collection.

Depending on the size of the law enforcement organization, there may not be access to an intelligence analyst or mechanism to support an agency’s intelligence needs. Furthermore, no centralized domestic intelligence apparatus in the U.S. government focuses solely on domestic terrorism like the NCTC does on international terrorism. DHS has established fusion centers across the United States, but the mission is bigger and more diverse than the resources presented.

B. CASE STUDY OF INTERNATIONAL AND DOMESTIC TERRORISM

To demonstrate the dichotomy between international and domestic terrorism, this section presents two case studies. The first case is the 2015 San Bernardino mass shooting that, almost from the beginning, was depicted as an international terrorist attack. The second case is the Oklahoma City bombing, considered by terrorism experts as the deadliest domestic terrorism attack until 9/11. The case studies highlight some distinctions between international and domestic terrorism investigations and prosecutions.

Following the 2015 IS-inspired terrorist attack in San Bernardino, California, at the Inland Regional Center, the two assailants, Syed Rizwan Farook, an American citizen, and Tashfeen Malik, his resident alien wife, were not charged with any crimes as they were killed during the attack.¹⁴⁷ However, a co-conspirator, Enrique Marquez Jr., was charged

¹⁴⁷ Mark Berman, “One Year after the San Bernardino Attack, Police Offer a Possible Motive as Questions Still Linger,” *Washington Post*, December 2, 2016, <https://www.washingtonpost.com/news/post-nation/wp/2016/12/02/one-year-after-san-bernardino-police-offer-a-possible-motive-as-questions-still-linger/>.

and convicted of “conspiracy to provide material support to terrorists and making false statements regarding his involvement in the purchase of guns used by Farook and his wife, Tashfeen Malik.”¹⁴⁸ Investigators also discovered that Marquez had conspired with Farook to plan other attacks.¹⁴⁹ In the aftermath of the attack, the FBI had determined that before the attack, Tashfeen Malik had pledged allegiance, on behalf of both attackers, to the leader of IS on Facebook; the FBI investigated this attack as an act of terrorism.¹⁵⁰ A total of 14 people died and 22 were seriously injured in this terrorist attack.¹⁵¹

The mastermind of the 1995 Oklahoma City bombing of the Alfred P. Murrah Federal Building, Timothy McVeigh, was an American-born citizen who served in the U.S. military and was honorably discharged in December 1991.¹⁵² As analyzed by Allison Reese, three key factors led to McVeigh’s radicalization: 1) the Weaver family’s Ruby Ridge standoff with federal authorities; 2) the standoff between federal authorities and the Branch Davidians; and 3) the far-right ideology of *The Turner Diaries*.¹⁵³

These three factors appear to have affected McVeigh—he interpreted them as a call to action. The standoffs between private citizens and the U.S. government reinforced the beliefs of far-right or anti-government militias that the U.S. government was overreaching and limiting the rights of its citizens. As legal experts have stated, “Despite considerable evidence linking various militant white supremacists to the tragedy in Oklahoma City . . . until September 11, 2001—[the Oklahoma City bombing was] the worst act of terrorism

¹⁴⁸ Adam Nagourney, Ian Lovett, and Richard Perez-Pena, “San Bernardino Shooting Kills at Least 14; Two Suspects Are Dead,” *New York Times*, December 2, 2015, <https://www.nytimes.com/2015/12/03/us/san-bernardino-shooting.html>.

¹⁴⁹ “Everything We Know about the San Bernardino Terror Attack Investigation So Far,” *Los Angeles Times*, December 15, 2015, <https://www.latimes.com/local/california/la-me-san-bernardino-shooting-terror-investigation-htmlstory.html>.

¹⁵⁰ Berman, “One Year after the San Bernardino Attack.”

¹⁵¹ “Everything We Know about the San Bernardino Terror Attack.”

¹⁵² John Kifner, “Oklahoma Bombing Suspect: Unraveling of a Frayed Life,” *New York Times*, December 31, 1995, <https://www.nytimes.com/1995/12/31/us/mcveigh-s-mind-special-report-oklahoma-bombing-suspect-unraveling-frayed-life.html>.

¹⁵³ Allison Reese, “From Ruby Ridge to Oklahoma City: The Radicalization of Timothy McVeigh” (undergraduate thesis, University of South Carolina, 2018), https://scholarcommons.sc.edu/senior_theses/259.

ever on American soil.”¹⁵⁴ Nevertheless, no one indicted for the Oklahoma City bombing was charged under terrorism statutes; instead, McVeigh and co-conspirator Terry Nichols were charged with “conspiring to use a weapon of mass destruction to kill persons and destroy federal property, for using a truck bomb to kill people, and for the malicious destruction of federal property resulting in death.”¹⁵⁵ Both were charged with “eight counts of violating a federal murder statute against killing federal law enforcement officials—one count for each of the eight law enforcement officers killed in the blast.”¹⁵⁶ Nichols, was “found guilty of conspiracy to bomb a federal building and eight counts of involuntary manslaughter,” not conspiracy to provide material support to terrorists.¹⁵⁷ Some 168 were killed and 500 others injured as a result of the Oklahoma City bombing.

This case study analysis starts with two identical data points—both attacks were perpetrated by U.S.-born citizens, and both attacks occurred on U.S. soil—but that is where their commonality ends. One aspect of these attacks worth noting is where they fall in the U.S. terrorism timeline. Farook executed his terrorist attack more than 14 years after 9/11 while McVeigh’s terrorist attack occurred six years before 9/11. Oklahoma City would be the deadliest attack on U.S. soil until 9/11; conversely, San Bernardino would be described as the third-deadliest terrorist attack since 9/11.¹⁵⁸ The San Bernardino terrorist attack killed 14 individuals and injured 22 others.¹⁵⁹ The Oklahoma City bombing killed 168 individuals and injured 500 others.

A notable difference between these two attacks is the motivating ideology. Farook was inspired by international terrorism in the form of fundamentalist Salafi jihadist

¹⁵⁴ Douglas Linder, “The Oklahoma City Bombing and the Trial of Timothy McVeigh,” *SSRN Electronic Journal* (2007): 1, <https://doi.org/10.2139/ssrn.1030565>.

¹⁵⁵ Linder, 9.

¹⁵⁶ “Attorney General’s Statement on Oklahoma Bombing Indictment,” Department of Justice, August 10, 1995, https://www.justice.gov/archive/opa/pr/Pre_96/August95/439.txt.html.

¹⁵⁷ Linder, “The Oklahoma City Bombing,” 13.

¹⁵⁸ Sari Horwitz and Joel Achenbach, “Report Offers New Details on San Bernardino Terrorist Attack,” *Washington Post*, September 9, 2016, https://www.washingtonpost.com/world/national-security/report-offers-new-details-on-san-bernardino-terrorist-attack/2016/09/09/599ea266-76be-11e6-b786-19d0cb1ed06c_story.html.

¹⁵⁹ Horwitz and Achenbach.

doctrine of Sunni Islam and had sworn allegiance to IS before the attack. After the FBI discovered Farook's allegiance to IS, it investigated the shooting as a terrorist attack.¹⁶⁰ On the other hand, McVeigh subscribed to the ideology of white supremacy and right-wing terrorism. When he was stopped by the Oklahoma Highway Patrol, he was in possession of William F. Pierce's *Turner Diaries*, and later during interviews, he described his anger and frustration over the U.S. government's actions in Ruby Ridge and claimed the Oklahoma City attack was in retaliation for the U.S. government's response to the Branch Davidian standoff.¹⁶¹ The FBI's definition of domestic terrorism is as follows: "Violent, criminal acts committed by individuals and/or groups further [ing] ideological goals stemming from domestic influences, such as those of a political, religious, social, racial or environmental nature."¹⁶² This definition could have been applied to McVeigh's actions as a domestic terrorist, but it was not.

Federal authorities have been reticent to apply the condition of material support to terrorists unilaterally across the terrorism spectrum. By one account, legal experts have noted that the providing-material-support statute is used in almost every international terrorism case tried in the United States.¹⁶³ In contrast, the federal government has applied that statute only to one domestic terrorism case since 9/11.¹⁶⁴ Although the distinction between being designated a terrorist and not may seem trivial, it is crucial in terms of the concern over bifurcation of international and domestic terrorism and the application of U.S. resources to intelligence development, investigation, and prosecution of these actors.

This distinction is important because it determines the way in which terrorism statutes are applied, and it changes the narrative around these terror-inspired attacks. Again, the charges levied against Marquez, Farook's co-conspirator, included "conspiracy to

¹⁶⁰ Berman, "One Year after the San Bernardino Attack."

¹⁶¹ Reese, "The Radicalization of Timothy McVeigh."

¹⁶² "Terrorism," Federal Bureau of Investigation, accessed January 15, 2021, <https://www.fbi.gov/investigate/terrorism>.

¹⁶³ "Trial and Terror," Intercept, November 5, 2020, <https://trial-and-terror.theintercept.com/>.

¹⁶⁴ Trevor Aaronson, "Homegrown Material Support: The Domestic Terrorism Law the Justice Department Forgot," Intercept, March 23, 2019, <https://theintercept.com/2019/03/23/domestic-terrorism-material-support-law/>.

provide material support to terrorists and making false statements regarding his involvement in the purchase of guns used by Farook and his wife, Tashfeen Malik.”¹⁶⁵ Conversely, McVeigh and his co-conspirator, Terry Nichols, were charged with “conspiring to use a weapon of mass destruction to kill persons and destroy federal property, for using a truck bomb to kill people, and for the malicious destruction of federal property resulting in death.”¹⁶⁶

To this day, government officials and the media describe the San Bernardino shooting as a terror attack and the Oklahoma City tragedy as a bombing. Bifurcating international and domestic terrorism limits the U.S. government’s systematic approach and response to an attack.

¹⁶⁵ Nagourney, Lovett, and Perez-Pena, “San Bernardino Shooting Kills at Least 14.”

¹⁶⁶ Linder, “The Oklahoma City Bombing,” 9.

IV. CASE STUDIES OF THE ATOMWAFFEN DIVISION AND THE BASE

To illustrate the emerging trends in REMVEs, this chapter presents case studies of two organizations—the AWD and the Base—to describe aspects that are unique to violent extremist movements and illustrate the comingling among organizations. The AWD and the Base’s relationship has been seen as complimentary—with the AWD an established organization and the Base an adaptive, emerging organization. The AWD was established in July 2015 and quickly grew in national and international popularity through the *Iron March* digital forum. On the other hand, the Base has a shorter history, given its establishment in October 2018. As investigative journalist Ben Makuch describes it, the Base is seen as “better organized . . . picking up where Atomwaffen left off in a more intelligent way, . . . learning from its [the AWD’s] mistakes and billing itself as this decentralized, nation-wide cell network.”¹⁶⁷ This is not to say that the Base is replacing the AWD, but it is evolving. The Base has taken a lesson-learned perspective, adapting its organizational structure and implementing violence more freely and willingly.

The selection of the AWD and the Base as case studies centered on their symbiotic existence. As discussed in Chapter I, both organizations follow the ideologies of accelerationism and ethnonationalism, but their connection is like a little brother–big brother relationship, to the point that some members of the Base are “double-patching.”¹⁶⁸ The Southern Poverty Law Center defines double-patching as “dual membership in another white supremacist group.”¹⁶⁹ Moreover, “The Base was designed as an umbrella that could draw in people who had been radicalized in other groups, like Atomwaffen Division.”¹⁷⁰ Assessing the AWD’s development over time could show how a burgeoning organization

¹⁶⁷ Ben Makuch and Jason Kepler, “The Online Birth of Neo-Nazi Terror Group ‘the Base,’” October 19, 2020, in *Cyber*, produced by VICE, podcast, MP3 audio, 23:16, <https://play.acast.com/s/cyber/theonlinebirthofneo-naziterrorgroupthebase>.

¹⁶⁸ Jason Wilson, “The Base: Exporting Accelerationist Terror,” Southern Poverty Law Center, August 12, 2020, <https://www.splcenter.org/hatewatch/2020/08/12/base-exporting-accelerationist-terror>.

¹⁶⁹ Wilson.

¹⁷⁰ Wilson.

such as the Base might develop. This is a descriptive study of how a white nationalist organization begins, evolves, and develops through the lens of established versus emergent organizations. The following pages explain the alignment of ideology, organizational structure, use of violence, and transnational reach of each group, offering an overview of the emerging trend of transnational connections.

There is a notable divergence between the two groups in that the Base is still developing its transnational reach. Even though the Base is still building an international network, its Maryland cell comprised two U.S. citizens and a Canadian national. As the following pages demonstrate, the AWD is more overtly aligned with international organizations than the Base is, but because of the organizations' close alignment, the Base can continue to terrorize the United States and use the AWD's established international connections when beneficial. A case in point is Base member Matthew Ryan Burchfield, who admitted to investigative journalists Makuch, Lamoureux, and Kamel that he had traveled to Ukraine to gain "war experience and military training."¹⁷¹

A predictor or indicator of how the Base will evolve might be evident in how the AWD used transnational connections to align itself with the international REMVE scene. Additionally, the AWD has leveraged this digital connection not only to reach the masses but also to build inroads into Europe and establish affiliates overseas. What does it mean to be an affiliate? Stanford's Center for International Security and Cooperation defines the AWD's affiliates as those "that have sworn fealty to AWD central in the United States, publicly adopted the AWD brand, and/or propagated AWD's ideology."¹⁷² These characteristics are important because transnational connections are a turning point that allows for an organization to transform from a U.S. domestic terrorist organization into an international one.

¹⁷¹ Ben Makuch, Mack Lamoureux, and Zachary Kamel, "Neo-Nazi Terror Group the Base Linked to the War in Ukraine," *Motherboard* (blog), February 6, 2020, <https://www.vice.com/en/article/y3m3eg/neo-nazi-terror-group-the-base-linked-to-the-war-in-ukraine>.

¹⁷² "Atomwaffen Division/National Socialist Order," Stanford Center for International Security and Cooperation, accessed December 12, 2020, <https://cisac.fsi.stanford.edu/mappingmilitants/profiles/atomwaffen-division>.

A. ATOMWAFFEN DIVISION

The AWD was founded by Brandon Clint Russell in 2015 and originally formed online through the game-oriented platform Discord, but it gained notoriety on the now-defunct fascist online forum *Iron March*.¹⁷³ As the movement was gaining traction and attention, James Mason, chief ideologue of the AWD, announced online in March 2020 that it was disbanding due to ongoing pressure from authorities, but only four months later, “a group of former AWD leaders announced the reorganization of AWD into the National Socialist Order.”¹⁷⁴ For the purpose of this thesis, the organization is identified as the AWD.

This section begins by describing the ideological markers and organizational structure of the AWD. Then, it details the organization’s alleged criminal activities, followed by its emerging transnational connections that led to its international status while it still operated domestically in the United States.

1. Ideology

The ideology that permeates the AWD is one of a social and political revolution that, once again, subjugates non-white, Jewish, female, and LGBTQ communities. While the organization identifies itself as “a revolutionary national socialist organization centered around political activism and the practice of an autonomous fascist lifestyle,” outsiders consider it a neo-Nazi organization with aspirations of starting a race war.¹⁷⁵ The AWD is a white nationalist, accelerationist organization that idolizes those who have committed acts in the name of ethnonationalism, such as Timothy McVeigh, Anders Breivik, and Brenton Tarrant.¹⁷⁶ McVeigh demonstrated what was possible—Mason advocated in *Siege* that terrorism should be carried out “in a manner commensurate to Timothy

¹⁷³ Blazakis et al., *The Atomwaffen Division*.

¹⁷⁴ “Atomwaffen Division/National Socialist Order,” Counter Extremism Project, accessed March 19, 2021, <https://www.counterextremism.com/supremacy/atomwaffen-division-national-socialist-order>.

¹⁷⁵ “Atomwaffen Division (AWD),” Anti-Defamation League, accessed October 10, 2020, <https://www.adl.org/resources/backgrounders/atomwaffen-division-awd>.

¹⁷⁶ Blazakis et al., *The Atomwaffen Division*.

McVeigh.”¹⁷⁷ While McVeigh stands out, the collective group of McVeigh, Breivik, and Tarrant is seen by the AWD as “martyrs to be lionized and worshipped,” due to the attacks they committed “in the service of white supremacist ideology.”¹⁷⁸

The AWD’s white nationalistic ideology comes from its chief ideologue, James Mason. In the 1980s, Mason created a short-lived newsletter that was subsequently compiled in a book titled *Siege*.¹⁷⁹ The AWD saw the significance of *Siege*, made it mandatory reading, and published the book on its site—which also directed its readership to “a new website called *Siege Culture*, a collaboration between AWD members and James Mason.”¹⁸⁰ Racists, both international and domestic, have embraced *Siege* as a rallying cry for the AWD.¹⁸¹ *Siege Culture*, made manifest in the AWD–Mason union, embraces race wars as a means of destroying society and rebuilding an explicitly white-dominated world.¹⁸² The Southern Poverty Law Center summarizes Mason’s belief proposition as follows: “Only the full collapse of American democracy and society will bring conditions sufficient to bring order through Nazism.”¹⁸³

Mason found inspiration in such notorious figures as Charles Manson, convicted murderer and leader of the Manson family, and William Pierce, American neo-Nazi and author of *The Turner Diaries*, which is required reading for white nationalists.¹⁸⁴ By accepting *Siege Culture* as its own, the AWD has transformed a little known but durable belief system into a contemporary following.¹⁸⁵ As Christopher Adamczyk concludes in

¹⁷⁷ James Mason, *Siege* (Iron March, 2015), 28, <http://88nsm.com/13904-james-mason-siege.html>.

¹⁷⁸ Blazakis et al., *The Atomwaffen Division*, 12.

¹⁷⁹ Counter Extremism Project, *James Mason’s Siege*.

¹⁸⁰ “Atomwaffen Division,” Southern Poverty Law Center, accessed February 8, 2021, <https://www.splcenter.org/fighting-hate/extremist-files/group/atomwaffen-division>.

¹⁸¹ Southern Poverty Law Center.

¹⁸² Counter Extremism Project, *James Mason’s Siege*.

¹⁸³ “James Mason,” Southern Poverty Law Center, accessed January 10, 2021, <https://www.splcenter.org/fighting-hate/extremist-files/individual/james-mason>.

¹⁸⁴ “William Pierce,” Southern Poverty Law Center, accessed December 12, 2020, <https://www.splcenter.org/fighting-hate/extremist-files/individual/william-pierce>.

¹⁸⁵ Counter Extremism Project, *James Mason’s Siege*, 3.

his thesis, “Using Siege as its instruction manual, the AWD became the flagship for an entire accelerationist movement that quickly spread around the world.”¹⁸⁶ The AWD has woven together *Siege* Culture and accelerationism to advance its desired goal of white dominance. As examined by the Counter Terrorism Project, the basic tenet of *Siege* calls for a “deliberate terrorist act to bring about a race war and the downfall of the global political system.”¹⁸⁷ Mason’s focus is on eliminating organized religion, interracial marriage, and the perceived world domination by Zionist-occupied governments.¹⁸⁸ The AWD internalizes accelerationism and accepts “that a race war is . . . desirable, as it is the only path to achieving white power by bringing about the downfall of current systems of government.”¹⁸⁹

2. Organizational Structure

The AWD has adopted what Bruce Hoffman calls a “leaderless organization,” which closely aligns with the “netwar” concept developed by John Arquilla and David Ronfeldt:

Protagonists use network forms of organization and related doctrines, strategies, and technologies attuned to the information age. These protagonists are likely to consist of dispersed organizations, small groups, and individuals who communicate, coordinate, and conduct their campaigns . . . often without precise central command.¹⁹⁰

Hoffman concludes, “This new type of organization is looser, flatter, and more linear.”¹⁹¹ Viewed as ad hoc terror cells, such organizations “execute attacks independently of one

¹⁸⁶ Adamczyk, “Gods versus Titans,” 52.

¹⁸⁷ Counter Extremism Project, *James Mason’s Siege*.

¹⁸⁸ Mason, *Siege*.

¹⁸⁹ Daveed Gartenstein-Ross, Samuel Hodgson, and Colin P. Clarke, “The Growing Threat Posed by Accelerationism and Accelerationist Groups Worldwide,” Foreign Policy Research Institute, April 20, 2020, <https://www.fpri.org/article/2020/04/the-growing-threat-posed-by-accelerationism-and-accelerationist-groups-worldwide/>.

¹⁹⁰ John Arquilla and David Ronfeldt, “The Advent of Netwar (Revisited),” in *Networks and Netwars*, ed. John Arquilla and David Ronfeldt (Santa Monica, CA: RAND Corporation, 2001), 6.

¹⁹¹ Bruce Hoffman, *Inside Terrorism*, 3rd ed. (New York: Columbia University Press, 2017), 42–43.

another or any central command, but . . . seek the eventual attainment of a terrorist organization or movement’s wider goals.”¹⁹²

The AWD’s organization comprises small localized cells that originally started as an online community. While members of the organization view Mason and Russell as the organizers, the mantra of the AWD maintains it is a leaderless organization. The AWD has local-level leaders in geographically distinct locations, such as John Cameron Denton in Montgomery, Texas; Michael Lloyd Hubsky in Las Vegas, Nevada; and Kaleb Cole in Washington state.¹⁹³ In addition to the AWD’s ability to amass membership across multiple states, it has also formulated an international allegiance overseas in such countries as the United Kingdom, Germany, Russia, and Ukraine, to name a few.¹⁹⁴

3. Violence as a Tool

Violence is seen as a tool—like a hammer in the hands of a carpenter—so AWD members have taken the call to action and committed crimes to further the organization’s goals. James Cameron Denton (aka “Rape”), leader of the Texas AWD branch, harassed journalists, a Virginia university, and a black church, among others, by placing multiple false bomb threats—a form of harassment called “swatting”—to elicit a major response from law enforcement.¹⁹⁵ In July 2020, Denton pled guilty to conspiracy to commit an offense against the United States and interstate threats to injure.¹⁹⁶

¹⁹² Hoffman, 43.

¹⁹³ Blazakis et al., *The Atomwaffen Division*, 9–11.

¹⁹⁴ Blazakis et al., 11.

¹⁹⁵ U.S. Attorney’s Office, Eastern District of Virginia.

¹⁹⁶ “Former Atomwaffen Division Leader Pleads Guilty to Swatting Conspiracy,” U.S. Attorney’s Office, Eastern District of Virginia, July 14, 2020, <https://www.justice.gov/usao-edva/pr/former-atomwaffen-division-leader-pleads-guilty-swatting-conspiracy>. “Swatting” is the harassment act of deceiving dispatchers into believing that a person or persons are in imminent danger of death or bodily harm and causing the dispatchers to send police and emergency services to an unwitting third party’s address.

Another indication of impending violence was evident in Michael Lloyd Hubsby's Death Valley Hate Camp—a three-day training camp—for AWD members.¹⁹⁷ In intercepted online communications, Hubsby describes how “to cut off your enemy's ability to shoot, move and communicate.”¹⁹⁸ A review by Thompson, Winston, and Hanrahan of these online comments makes mention of Hubsby's suggestion to blow up infrastructure, such as natural gas lines, water lines, and power grids, but only on the West Coast.¹⁹⁹ While none of the attacks have happened, these online discussions could be the seeds that lay the groundwork for possible attacks in the future. Moreover, the willingness of AWD members to prepare such plans indicates who they really are and what they are interested in doing.

Other members have not only prepared and planned for attacks but also allegedly executed violent acts in support of their ideology. Examples include Nicholas Giampa, who allegedly murdered his girlfriend's parents because they forbade her from dating a neo-Nazi.²⁰⁰ Samuel Woodward, yet another example, was charged with the murder of Blaze Bernstein, an openly gay Jewish college student.²⁰¹ Furthermore, Beau Merryman was indicted for “knowingly distribut [ing] . . . the manufacture and use of an explosive and destructive device, namely detailed instructions for constructing pipe bombs” to other white nationalists.²⁰² While not an all-inclusive list, this sampling lends support to the argument that AWD members are willing to use violence as a tool.

¹⁹⁷ A. C. Thompson, Ali Winston, and Jake Hanrahan, “Inside Atomwaffen As It Celebrates a Member for Allegedly Killing a Gay Jewish College Student,” ProPublica, February 23, 2018, <https://www.propublica.org/article/atomwaffen-division-inside-white-hate-group>.

¹⁹⁸ Thompson, Winston, and Hanrahan.

¹⁹⁹ Thompson, Winston, and Hanrahan.

²⁰⁰ Jason Wilson, “Sweep of Arrests Hits U.S. Neo-Nazi Group Connected to Five Murders,” *Guardian*, March 6, 2020, <http://www.theguardian.com/world/2020/mar/06/neo-nazi-arrests-deals-blow-us-group-atomwaffen-division>.

²⁰¹ A. C. Thompson, Ali Winston, and Jake Hanrahan, “California Murder Suspect Said to Have Trained with Extremist Hate Group,” ProPublica, January 26, 2018, <https://www.propublica.org/article/california-murder-suspect-atomwaffen-division-extremist-hate-group?token=YW5qJ0mfg-45Dmhi6RMKrQpGXfwxgh08>.

²⁰² *United States v. Merryman*, No. 2:19-cr-00011-JRG-RSP (E.D. Tex. filed October 16, 2019), <https://www.courtlistener.com/docket/16364943/2/united-states-v-merryman/>.

4. Transnational Reach—Internationalization

Since its inception, the AWD has had a transnational reach with its digital establishment, which enabled the organization to spread across the world through the now-defunct *Iron March* forum. An example of this established connection between American and overseas REMVE organizations is demonstrated by the AWD's Kaleb Cole traveling to Eastern Europe for 25 days in December 2018. While in Kyiv, Ukraine, Cole attended a black metal festival hosted by white nationalist organization Azov Battalion.²⁰³ After an extended visit to Europe, an inspection at O'Hare International Airport in Chicago by U.S. Customs and Border Protection revealed photos on Cole's cell phone of him visiting Auschwitz concentration camp while holding an AWD flag and wearing masks typically associated with the AWD.²⁰⁴

Terrorism experts have established connections between the AWD and domestic terrorist organizations that are both international and geographically disparate. That is to say, they are foreign to the United States but linked to U.S. domestic violent extremists through ideology and organizational allegiance. Some of these groups are more closely affiliated with the AWD while others are more tangentially aligned; nonetheless, both categories of organizations believe in the foundation of the AWD—James Mason's *Siege*. The affiliation of the AWD and the SKD is a close one.²⁰⁵ As the Anti-Defamation League has detailed, "Sonnenkrieg rails against a perceived cultural and racial obliteration of the white race."²⁰⁶ However, the organizations differ in where they focus their energy—while the AWD is concerned with societal changes in the United States, the SKD is fixated on

²⁰³ Blazakis et al., *The Atomwaffen Division*.

²⁰⁴ Mike Baker, "Police Seize Guns from Man Thought to Be Neo-Nazi Leader," *New York Times*, October 17, 2019, ProQuest.

²⁰⁵ Stanford Center for International Security and Cooperation, "Atomwaffen Division/National Socialist Order."

²⁰⁶ Anti-Defamation League, "Atomwaffen Division."

Europe, particularly the United Kingdom and Eastern Europe.²⁰⁷ On February 25, 2020, the United Kingdom designated the SKD a terrorist organization.²⁰⁸

Another well-known transnational affiliate of the AWD is the FKD, which was founded in late 2018 as an “accelerationist neo-Nazi militant organization.”²⁰⁹ Terrorism experts speculate the FKD’s origins are in Estonia, but “it has since expanded across Europe, with a footprint in Belgium, the United Kingdom, Ireland, the Netherlands, Norway, Latvia, Germany and Russia.”²¹⁰ The FKD’s ideology combines accelerationism, anti-Semitism, and white nationalism, with a touch of survivalism to prepare its members for the collapse and reconstruction of a white ethno-state that would once again dominate the world. As of July 2020, the United Kingdom designated the FKD a terrorist organization.²¹¹

The case of Conor Climo illustrates the transnational reach of the FKD within the continental United States. Climo caught the attention of the FBI after communicating with the AWD and FKD via encrypted chats; consequently, the FBI arrested Climo for plotting to firebomb Jewish sites in and around Las Vegas.²¹² In Climo’s criminal complaint, he admits joining the FKD “to do something ‘generally different’ related to his hatred of

²⁰⁷ Anti-Defamation League.

²⁰⁸ Priti Patel, “Government Takes Action to Proscribe Right-Wing Terrorist Groups,” Her Majesty’s Government, February 24, 2020, <https://www.gov.uk/government/news/government-takes-action-to-proscribe-right-wing-terrorist-groups>.

²⁰⁹ Stanford Center for International Security and Cooperation, “Atomwaffen Division/National Socialist Order.”

²¹⁰ Blazakis et al., *The Atomwaffen Division*.

²¹¹ “Feuerkrieg Division Proscribed as Terrorist Group in U.K.,” Homeland Security Today, July 18, 2020, <https://www.hstoday.us/subject-matter-areas/counterterrorism/feuerkrieg-division-proscribed-as-terrorist-group-in-u-k/>.

²¹² Joe Sexton, “Las Vegas Man Arrested in Plots against Jews Was Said to Be Affiliated with Atomwaffen Division,” ProPublica, August 14, 2019, <https://www.propublica.org/article/las-vegas-man-conor-climo-was-said-to-be-affiliated-with-atomwaffen-division>; Ken Ritter and Michael Kunzelman, “White Supremacist Sentenced to 2 Years in Bomb Plot Case,” *Las Vegas Sun*, November 13, 2020, <https://lasvegassun.com/news/2020/nov/13/white-supremacist-sentenced-to-2-years-in-bomb-plot/>; *United States v. Climo*, No. 2:19-cr-00232-JCM-NJK (D. Nev. filed August 9, 2019), <https://www.courtlistener.com/docket/16192083/1/united-states-v-climo/>.

African-Americans, Jews, and Homosexuals.”²¹³ In February 2020, Climo pled guilty to possession of an unregistered firearm.²¹⁴

B. THE BASE

The Base was established in July 2018 by Rinaldo Nazzaro, known also by the aliases Norman Spear and Roman Wolf on digital platforms.²¹⁵ Currently, Nazzaro is directing a U.S. domestic terrorist organization from a foreign location—Russia.²¹⁶ The name—the Base—is the English translation of al-Qaida (AQ); terrorism experts have noted it is unclear whether Nazzaro named the Base intentionally after AQ. However, Makuch and Lamoureux have reported that terrorism experts such as Joshua Fisher-Birch have surveyed the idea: “It makes sense that extreme white supremacy groups would parrot ISIS [Islamic State in Iraq and Syria] or al Qaeda propaganda because both endorse the use of extreme violence for ideological ends.”²¹⁷ An online persona linked to the Base recommended that all REMVE organizations read Abu Bakr Naji’s *The Management of Savagery*, a “2004 terrorism manual [that] advocates for a professionalized guerilla insurgency steeped in modern propaganda.”²¹⁸ While the connection is not completely clear, it does suggest some synergy among violent extremists.

This section begins by describing the ideological markers of the Base, its organizational structure, and its alleged criminal activities. It concludes with a discussion of its emerging transnational connections that led to its international status while it still operated domestically in the United States.

²¹³ Sexton, “Las Vegas Man Arrested in Plots.”

²¹⁴ Def.’s plea agreement, *States v. Climo*, No. 2:19-cr-00232-JCM-NJK (D. Nev. filed February 10, 2020), <https://www.courtlistener.com/docket/16192083/25/united-states-v-climo/>.

²¹⁵ “The Base,” Southern Poverty Law Center, accessed December 11, 2020, <https://www.splcenter.org/fighting-hate/extremist-files/group/base>.

²¹⁶ Mack Lamoureux, Ben Makuch, and Zachary Kamel, “How One Man Built a Neo-Nazi Insurgency in Trump’s America,” VICE News, October 7, 2020, <https://www.vice.com/en/article/v7g9kb/how-one-man-built-a-neo-nazi-insurgency-in-trumps-america>.

²¹⁷ Ben Makuch and Mack Lamoureux, “Neo-Nazis Are Glorifying Osama Bin Laden,” VICE News, September 17, 2019, <https://www.vice.com/en/article/bjwv4a/neo-nazis-are-glorifying-osama-bin-laden>.

²¹⁸ Makuch and Lamoureux.

1. Ideology

Nazzaro claims the group's goal is to incite a race war, through accelerationism, as a means to "establish a white ethno-state in the United States."²¹⁹ Inspired by the founder of the Aryan Nations, Richard Butler, who called for white migration to the Northwest in the 1970s and 1980s, Nazzaro purchased land in the Pacific Northwest to build a white homeland under the name of the Butler Plan.²²⁰ Similar to the AWD, the Base requires its members to read *Siege* by James Mason and ascribes to the separation of white people from other races; furthermore, Nazzaro has declared his goal is to "unite white nationalists for the coming race war that will overthrow the government and reshape society."²²¹

2. Organizational Structure

Nazzaro has described the Base as a paramilitary militant neo-Nazi organization looking to recruit people of white European ancestry to "train and build a survivalist and self-defense network."²²² The Base claims to be a "leaderless resistance model" with a decentralized cellular network comprising small agile cells of only a handful of people.²²³ The Southern Poverty Law Center describes the cellular network structure as "regional cells [that] share an ideology . . . but have little contact between them—a measure put in place to protect the rest of the network."²²⁴ The Base's structural model is similar to that of the AQ, except that the latter focused on compartmentalizing not decentralizing command.

As mentioned previously, the Base is not limited to a single location but has membership among multiple states. While this violent extremist group is primarily active

²¹⁹ "The Base," Anti-Defamation League, accessed October 11, 2020, <https://www.adl.org/resources/backgrounders/the-base>.

²²⁰ Southern Poverty Law Center, "The Base."

²²¹ Ben Makuch and Mack Lamoureux, "Neo-Nazis Are Organizing Secretive Paramilitary Training across America," VICE News, November 20, 2018, <https://www.vice.com/en/article/a3mexp/neo-nazis-are-organizing-secretive-paramilitary-training-across-america>.

²²² Anti-Defamation League, "The Base."

²²³ Southern Poverty Law Center, "The Base."

²²⁴ Southern Poverty Law Center.

in the United States, it does have some international connections. The Anti-Defamation League has listed the Base as active in “Connecticut, Georgia, California, Massachusetts, Michigan, New Hampshire, New Jersey New York and Minnesota, as well as international locations including Australia, Canada and South Africa.”²²⁵ Terrorism experts have expanded the list to include Washington, Wisconsin, and Maryland.²²⁶

3. Violence as a Tool

While Nazzaro has tried to distance himself from the violence, he has “explicitly advocate [d] . . . mass violence in their [The Base’s] online communications.”²²⁷ Nazzaro has continued to advocate a race war following the same model as polarizing groups—he has used his First Amendment rights to energize a base and then claimed he never spurred anyone to act on his narrative. Some have reported that the Base’s rhetoric has been so violent that the group has been removed from far-right social media sites such as Gab.²²⁸ In the two years since its inception, the Base’s members have found comradery and acted on their ideology in violent ways. The aforementioned ideological leanings and use of violence confirms the Base is operating similarly to others in the REMVE movement and is not an outlier.

Violent rhetoric has incited members to plan and initiate hate-based attacks. As previously noted, the FBI arrested the three members of a Maryland cell—Brian Lemley, Patrik Mathews, and William Bilbroughs. They were arrested before they could act on their violent plan to attack a gun rally scheduled to take place in Richmond, Virginia, in January 2020.²²⁹ In court documents, the FBI detailed the group members’ continuous ruminations

²²⁵ Anti-Defamation League, “The Base.”

²²⁶ “Members of ‘the Base’ Arrested in Maryland, Georgia, and Wisconsin,” Soufan Center, January 21, 2020, <https://thesoufancenter.org/intelbrief-members-of-the-base-arrested-in-maryland-georgia-and-wisconsin/>.

²²⁷ Gartenstein-Ross, Hodgson, and Clarke, “The Growing Threat Posed by Accelerationism.”

²²⁸ Wilson, “The Base.”

²²⁹ Gregory S. Schneider, “Judge Upholds Northam’s Ban on Guns outside Va. Capitol for Monday’s Rally,” *Washington Post*, January 16, 2020, https://www.washingtonpost.com/local/virginia-politics/gun-rights-group-files-challenge-to-northams-ban-on-guns-outside-va-capitol-judge-to-rule-quickly/2020/01/16/7ec8a764-388d-11ea-bb7b-265f4554af6d_story.html.

on “committing targeted acts of violence.”²³⁰ Concerned about this group’s intent and ability, the FBI continued to investigate and document its activity. The FBI noted the Maryland cell’s discussions about its plans approximately two weeks before the gun rally. In an FBI recording, Mathews asks, “Are we loading the truck, when we go to Virginia as if potential like operations?” to which Lemley replies, “We’re loading the truck for the war . . . essentially.”²³¹ An investigative reporter who infiltrated the Maryland cell of the Base exposed its penchant for violence in encrypted messaging.²³² Mathews wrote, “We’re real (expletive) Nazis and they can’t do s--- to us but wait for us to put em . . . against the wall. . . . We’re starting with action.”²³³ The cell was charged with transporting a firearm and ammunition with intent to commit a felony; transporting and harboring Patrik Mathews, an illegal alien who entered the United States without inspection; and conspiracy—not to mention Patrik Mathews’s indictment as an alien in possession of a firearm and ammunition.²³⁴

Additionally, in January 2020, three more members of the Base were arrested in Georgia on criminal charges of plotting to commit murder and overthrow the U.S. government; the group had planned to murder a couple who were local Antifa leaders sympathetic with the far-left Antifa movement.²³⁵ In August 2020, Yousef O. Barasneh, a member of the Great Lakes cell pled guilty to “conspiring to violate citizens’ rights to U.S.

²³⁰ United States v. Lemley et al., No. 8:20-cr-00033-TDC (D. Md. filed January 27, 2020), 22, <https://www.courtlistener.com/docket/16799959/40/united-states-v-lemley-jr/>.

²³¹ Lemley, 26.

²³² Ryan Thorpe, “White Supremacist in Army Reserve,” *Winnipeg Free Press*, August 19, 2019, <https://www.winnipegfreepress.com/local/white-supremacist-in-army-reserve-553050082.html>.

²³³ Thorpe.

²³⁴ “Three Alleged Members of the Violent Extremist Group ‘the Base’ Facing Federal Firearms and Alien-Related Charges,” U.S. Attorney’s Office, District of Maryland, January 16, 2020, <https://www.justice.gov/usao-md/pr/three-alleged-members-violent-extremist-group-base-facing-federal-firearms-and-alien>.

²³⁵ Bill Chappell, Merrit Kennedy, and Vanessa Romo, “3 Alleged Members of Hate Group ‘the Base’ Arrested in Georgia, Another in Wisconsin,” NPR, January 17, 2020, <https://www.npr.org/2020/01/17/797399834/3-alleged-members-of-hate-group-the-base-arrested-in-georgia>.

property free from threats and intimidation.”²³⁶ Through online chats, he had committed “to threaten and intimidate African Americans and Jewish Americans, who [he] viewed as enemies of the white race.”²³⁷ In September 2019, Barasneh honored his commitments by going to the Beth Israel Sinai synagogue and vandalizing it with anti-Semitic words and Nazi symbols.²³⁸

While the Base does not claim an act of violence, the previously discussed examples demonstrate its members are willing and preparing to act. While there is recent history of law enforcement interceding before the violent act occurs, it will not always be the case.

4. Transnational Reach—Internationalization

Similar to the AWD, the Base has developed its own connections to transnational organizations.²³⁹ The Base is younger than the AWD, having started only in mid-2018, but it has developed a network in the United States and overseas including citizens from Canada, Europe, South Africa, and Australia.²⁴⁰

Based on similar organizational frameworks, the affiliation between the Base and Australian nationalist socialist organizations, such as the Antipodean Resistance, is consistent with their ideological position on accelerationism and the creation of an ethno-state. As the Program on Extremism assesses in its February 2020 analysis, members of the Antipodean Resistance “see themselves as being in an existential struggle to save the white race, as well as a quest to foster revolutionary change in the near future.”²⁴¹ The Southern Poverty Law Center succinctly discusses the connections between the Base and like-minded Australians that appear to emerge in 2019 with the interest of a handful of

²³⁶ “Oak Creek Man Who Vandalized Racine Synagogue Pleads Guilty,” U.S. Attorney’s Office, Eastern District of Virginia, August 13, 2020, <https://www.justice.gov/usao-edwi/pr/oak-creek-man-who-vandalized-racine-synagogue-pleads-guilty>.

²³⁷ U.S. Attorney’s Office, Eastern District of Virginia.

²³⁸ U.S. Attorney’s Office, Eastern District of Virginia.

²³⁹ Blazakis et al., *The Atomwaffen Division*, 22.

²⁴⁰ Southern Poverty Law Center, “The Base.”

²⁴¹ Jackson, *Transnational Neo-Nazism*, 36.

men.²⁴² To capitalize on the interest, Nazzaro named one Base applicant, “Volkskrieger,” the Australian recruiter.²⁴³ Through encrypted conversations on the app Wire, Volkskrieger describes his connections and recruitment opportunities within nationalist, socialist, accelerationist groups: FacistForge, Lads Society, the United Patriots Front, and the Antipodean Resistance.²⁴⁴ While these organizations are locally focused and independent, they are also connected—once they are connected, digitally or physically, they become a movement with transnational reach.

In a recent journal article, terrorism scholars Seth Jones, Catrina Doxsee, and Nicholas Harrington assert the DME will remain a constant in the violent extremist milieu, as it is a vital medium for domestic terrorists to collaborate, radicalize, and coordinate around the world.²⁴⁵ This movement is geographically nationless and does not seek a permanent home, but it thrives in the dialogue of extremist ideology posted on imageboards, chans, and blogs.

Groups such as the AWD and the Base are part of a transnational movement that intertwines REMVE ideology with the perceived extinction of the entire “white race.”²⁴⁶ They not only look to their international connections for inspiration but also franchise their organizations overseas, or vice versa. Think tanks, such as the Soufan Center, and academics have noted there are known AWD affiliates overseas in the United Kingdom and Germany.²⁴⁷ If examined from another angle, as Bruce Hoffman argues in his book

²⁴² Jackson, 36.

²⁴³ Southern Poverty Law Center, “The Base.”

²⁴⁴ Southern Poverty Law Center.

²⁴⁵ Jones, Doxsee, and Harrington, *The Right-Wing Terrorism Threat in Europe*.

²⁴⁶ Devlin Barrett, “Arrests in Domestic Terror Probes Outpace Those Inspired by Islamic Extremists,” *Washington Post*, March 9, 2019, https://www.washingtonpost.com/world/national-security/arrests-in-domestic-terror-probes-outpace-those-inspired-by-islamic-extremists/2019/03/08/0bf329b6-392f-11e9-a2cd-307b06d0257b_story.html. At the initial drafting of this thesis, the group’s name was the Atomwaffen Division. As of August 12, 2020, it officially modified its name to the National Socialist Order. “IntelBrief: Atomwaffen Goes Global,” Soufan Center, August 12, 2020, <https://thesoufancenter.org/intelbrief-atomwaffen-goes-global/>.

²⁴⁷ Soufan Center, *The Atomwaffen Division: The Evolution of the White Supremacy Threat* (New York: Soufan Center, 2020), 15–18, <https://thesoufancenter.org/research/the-atomwaffen-division-the-evolution-of-the-white-supremacy-threat/>.

Inside Terrorism, ad hoc terror cells “execute attacks independently of one another or any central command, but . . . seek the eventual attainment of a terrorist organization or movement’s wider goals.”²⁴⁸ What may at first appear to be networks could be developing into a movement.

C. CONCLUSION

Comprehending the objectives of violent extremist organizations such as the AWD and the Base helps the U.S. government recognize the methods these groups are willing to use to accomplish their goals; furthermore, the composition of these organizations makes manifest the means they are willing to employ to effect change. These organizations are predominately male, of varying age, and with varying military experience. This new cohort of violent extremists is willing to use the military experience of its members to train other members in military tactics and weapons, and the use of explosives and asymmetric warfare.²⁴⁹ An example of this capability is the AWD’s hosting of “hate camp hiking excursions,” used to indoctrinate and provide members with survival skills that could be useful if society collapses and is under reconstruction.²⁵⁰ In another case, as detailed by investigative journalist Ben Makuch, the Base’s Nazzaro advises “it’s illegal if you’re training in order to cause civil unrest. . . . If you’re training for survivalism and self defense you’re good to go.”²⁵¹ The acknowledgment of both legal and illegal activities coupled with the methods demonstrates the seriousness of the members’ willingness to participate in race wars and political insurrection.²⁵² Understanding the AWD and the Base will shed light on an undercurrent that is flourishing in contemporary society.

²⁴⁸ Hoffman, *Inside Terrorism*, 43.

²⁴⁹ Southern Poverty Law Center, “Atomwaffen Division”; Soufan Center, *The Evolution of the White Supremacy Threat*.

²⁵⁰ Anti-Defamation League, “Atomwaffen Division.”

²⁵¹ Lamoureux, Makuch, and Kamel, “How One Man Built a Neo-Nazi Insurgency.”

²⁵² Ben Makuch, “Neo-Nazis Boast about Participation in Capitol Hill Invasion,” VICE News, January 7, 2021, <https://www.vice.com/en/article/93wnja/neo-nazis-boast-about-participation-in-capitol-hill-invasion>.

V. CONCLUSION

This thesis began by asking what challenges homegrown REMVE actors or organizations pose to HSE. The first challenge identified is related to the constitutional protections provided to REMVE actors and organizations because of their legal status in the United States. Because of their legal status, their rights to speech and peaceful assembly are protected by the First Amendment, which in turn makes them untouchable. The second identified challenge is how the U.S. federal government categorizes homegrown REMVE actors or organizations. Some REMVE actors or organizations have meaningful connections with international terrorists. Furthermore, because of these connections, the HSE must cease automatically classifying homegrown REMVE actors or organizations as domestic terrorists but classify those with meaningful transnational connections as international terrorists.

What is apparent from the recent increase in violence, as shown in Chapter II and described in Chapter IV, is that REMVE actors are not just embracing their freedom of speech but engaging in violence. Unite the Right and the January 6 insurrection are well-known incidents, but since 2016, lesser-known, smaller acts of violence committed by REMVE actors have increased. When REMVE actors transform words into violent action, they lose their status as untouchable under the First Amendment but then fall under the Fourth Amendment protections of search and seizure. Mitigating the threat of homegrown violent extremists has never been about silencing speech; however, it has been about limiting the damage these groups do to the life, liberty, and pursuit of happiness of those they focus their violence on.

The Fourth Amendment protects against “unreasonable” search and seizure, but it also affords authorities the ability to surveil anyone, foreign or domestic, who “acts for or on behalf of a foreign power . . . contrary to the interests of the United States”—this type of investigative authority is granted by FISA.²⁵³ Considering that REMVE actors or organizations are no longer purely domestic but transnational, this latitude allows the U.S.

²⁵³ Foreign Intelligence Surveillance Act of 1978.

government to investigate them to the fullest extent of the law and under the purview of probable cause while protecting the core rights that the Fourth Amendment covers.

If the U.S. government begins to categorize the AWD or the Base not as First Amendment purveyors but as violators of law, the Fourth Amendment's requirements would become an available tool for mitigating REMVE violence. This would enable law enforcement authorities to use probable cause to use tools such as FISA to develop evidence of the culpability of REMVE actors in violent criminal attacks.

It is not without reason to suggest the application of the Fourth Amendment's FISA option to U.S. citizens would be unnerving to some. The United States' recent history of balancing security with protecting civil liberties has been a challenge for a system that places greater value on national security than on privacy rights. Even with robust monitoring, the American public remembers the FBI's counterintelligence programs and civil rights violations of the 1950s, 60s, and 70s. Indeed, Director Hoover's programs to collect and surveil on U.S. citizens were not always within the bounds of the law.²⁵⁴ The Church and Pike Committees exposed "previous abuses of U.S. persons' privacy rights by certain components of the U.S. government . . . to counter purported threats to national security."²⁵⁵ The Church and Pike Committees revealed that when there is limited to no oversight, the predilection of men in power is to subjectively, and without external rigorous debate, determine who or what organizations threaten the state.

The populace would need to trust the opaque framework of FISA and warrantless searches and believe U.S. authorities are minimizing the collection, retention, and dissemination of incidentally collected identities of U.S. citizens while collecting on those working with foreign powers.²⁵⁶ Along the same line, some in law enforcement may have reservations about surveilling their fellow U.S. citizens and interpret this type of

²⁵⁴ William Keller, *The Liberals and J. Edgar Hoover* (Princeton, NJ: Princeton University Press, 1989), 4.

²⁵⁵ McAdams, "Foreign Intelligence Surveillance Act," 2.

²⁵⁶ Office of the Director of National Intelligence, *Protecting U.S. Person Identities in FISA Disseminations under the Foreign Intelligence Surveillance Act* (Washington, DC: Office of the Director of National Intelligence, 2017), <https://www.intelligence.gov/ic-on-the-record-database/results/574-protecting-u-s-person-identities-in-fisa-disseminations>.

intelligence collection as an infringement on a person's privacy rights. When the concept of surveilling U.S. citizens makes people uncomfortable, it should be countered with the following question: If the U.S. government could stop another Oklahoma City bombing or an El Paso Wal-Mart shooting, should it, or should the terrorist's civil liberties and privacy outweigh a victim's life? Such a quandary leaves lingering questions of how the U.S. government can install the appropriate safeguards into a system that must balance civil liberties with national security. This thesis does not purport to answer the larger question of how to enforce transparency in a system that is purposefully blind.

If the U.S. government starts categorizing REMVE actors or organizations with meaningful transnational connections as international terrorists, there is another tool it can employ to mitigate the threat of terrorism—the FTO list. The FTO list is used to identify and sanction terrorists as well as criminalize the act of providing material support to anyone or any organization on the FTO list. The organizations to which the U.S. REMVE actors or organizations are meaningfully connected are likely designated in their own respective homelands; minimally, U.S. REMVE actors or organizations are providing support to known international terrorists.

Expanding on this concept, consider the influence of a foreign country's terrorist designation and/or sanctions as grounds for designating U.S. REMVE actors or organizations as FTOs. For example, the United States relied on a foreign country's terrorist designation to indict members of Mara Salvatrucha (MS-13) on January 14, 2021. The DOJ indicted members of MS-13, a Central American-based international criminal gang, under “conspiracy to provide and conceal material support to terrorists, conspiracy to commit acts of terrorism transcending national boundaries, [and] conspiracy to finance terrorism” based on the recent whole-of-government approach to mitigating its threat.²⁵⁷ While not the whole justification, the United States was able to leverage the El Salvadoran Supreme Court's 2015 terrorist designation of MS-13.²⁵⁸

²⁵⁷ “MS-13's Highest-Ranking Leaders Charged with Terrorism Offenses in the United States,” Department of Justice, January 14, 2021, <https://www.justice.gov/opa/pr/ms-13-s-highest-ranking-leaders-charged-terrorism-offenses-united-states>.

²⁵⁸ Steven Dudley, “6 Reasons Why the U.S. Charged MS13 Leaders with Terrorism,” InSight Crime, January 15, 2021, <https://www.insightcrime.org/news/analysis/ms13-leaders-terrorism/>.

As illustrated in Chapter III, the AWD and the Base have well-established transnational links to designated organizations that should be sufficient to designate both organizations FTOs. An example of a foreign government’s proactive mitigation of transnationally linked violent extremists is the recent action taken by Canada’s government listing—comparable to the U.S. designation of international terrorists—of “ideologically motivated violent extremist groups: Atomwaffen Division, the Base, the Proud Boys and Russian Imperial Movement” in early February 2021.²⁵⁹

If U.S. REMVE actors or organizations are designated on the FTO list, sanctioning an organization can affect its ability to recruit and criminalize participation in its financial transactions or business functions, given its status as a terrorist organization. Furthermore, adding the charge of “material support or resources” can add between 15 and 20 years of imprisonment to a conviction. Finally, designating U.S. REMVEs as international terrorists would send the message to U.S. partners and allies that this new transnational REMVE movement poses a significant threat to global peace.

²⁵⁹ Public Safety Canada, “Canada Lists 13 New Groups as Terrorist Entities.”

APPENDIX A. FIRST AMENDMENT PROTECTION OF PROVOCATIVE SPEECH

Supreme Court decisions on freedom of expression have varied depending on the circumstances. In two World War I cases, the court upheld decisions that deferred to the U.S. government. In *Schenck v. United States*, the court heard the case of Charles Schenck and Elizabeth Baer, who were charged with violating the Espionage Act of 1917 when they distributed leaflets that equated the military draft to involuntary servitude and claimed it violated the 13th Amendment.²⁶⁰ In a unanimous decision, the court held that the Espionage Act did not violate the First Amendment. Moreover, it found, “When a nation is at war many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured so long as men fight and that no Court could regard them as protected by any constitutional right.”²⁶¹ In Justice Holmes’ opinion, Schenck and Baer’s actions violated the clear and present danger test, as “the words used [could have brought] about the substantive evils that Congress has a right to prevent.”²⁶²

In *Abrams v. United States*, when the United States had been at war with Germany on Russian soil, the court heard the case of two Russian immigrant defendants who had circulated literature undermining ammunition production. The defendants had been convicted for throwing two leaflets from a window denouncing American troops in Russia and munition production.²⁶³ The court held “the leaflets violated the Espionage Act. Congress’ determination that all such propaganda posed a danger to the war effort was sufficient to meet the standard set in *Schenck v. United States* for prosecuting attempted crimes. As in *Schenck*, the Court emphasized that protections on speech are lower during wartime.”²⁶⁴

²⁶⁰ *Schenck v. United States*, 249 U.S. 47 (1919).

²⁶¹ *Schenck*, 249 U.S. at 52.

²⁶² *Schenck*, 249 U.S. at 52.

²⁶³ *Abrams v. United States*, 250 U.S. 616 (1919).

²⁶⁴ “*Abrams v. United States*,” Oyez, accessed March 23, 2021, <https://www.oyez.org/cases/1900-1940/250us616>.

In contrast, the court has upheld the freedom of expression in such cases as *Cohen v. California*.²⁶⁵ The case entailed a 19-year-old store worker's being charged with maliciously and willfully disturbing the peace by protesting the Vietnam War by wearing a jacket that read, "Fuck the draft. Stop the war."²⁶⁶ The court decided that while the words were provocative, there was no evidence people were provoked by the words on the man's jacket:

We cannot indulge the facile assumption that one can forbid particular words without also running a substantial risk of suppressing ideas in the process. Indeed, governments might soon seize upon the censorship of particular words as a convenient guise for banning the expression of unpopular views.²⁶⁷

With this decision, the court protected both the expression of ideas and the expression of emotion.²⁶⁸

The Supreme Court also upheld free speech in *Brandenburg v. Ohio*.²⁶⁹ The issue in question was whether Ku Klux Klan leader Clarence Brandenburg's First Amendment rights were violated when he was convicted under the Ohio criminal syndicalism law, which made it illegal to advocate "crime, sabotage, violence or unlawful methods of terrorism as a means of accomplishing industrial or political reform."²⁷⁰ The court decided that the Ohio law violated Brandenburg's First Amendment rights.

The Court used a two-pronged test to evaluate speech acts: (1) speech can be prohibited if it is "directing at inciting or producing imminent lawless action" and (2) it is "likely to incite or produce such action." The criminal syndicalism act made illegal the advocacy and teaching of doctrines while ignoring whether or not that advocacy and teaching would actually incite

²⁶⁵ *Cohen v. California*, 403 U.S. 15 (1971).

²⁶⁶ "Cohen v. California," Oyez, accessed March 23, 2021, <https://www.oyez.org/cases/1970/299>.

²⁶⁷ *Cohen*, 403 U.S. at 26.

²⁶⁸ Oyez, "Cohen v. California."

²⁶⁹ *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

²⁷⁰ ORC Ann. 2923.13, quoted in *Brandenburg*, 395 U.S. at 445.

imminent lawless action. The failure to make this distinction rendered the law overly broad and in violation of the Constitution.²⁷¹

The court decided on behalf of Brandenburg because the criminal syndicalism law did not consider the words vis-à-vis the actual imminent incitement caused by those words.

²⁷¹ “Brandenburg v. Ohio,” Oyez, accessed March 23, 2021, <https://www.oyez.org/cases/1968/492>.

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APPENDIX B. EXTENT OF FIRST AMENDMENT PROTECTION OF EXPRESSIVE ACTION

Tinker v. Des Moines Independent Community School District involved students' decision to wear armbands in support of a truce in the Vietnam War.²⁷² They were suspended from school for wearing the armbands, and the question brought before the court was whether the school had violated the students' First Amendment right to free speech when it prohibited their symbolic protest.²⁷³ The court ruled,

In order for the State . . . to justify prohibition of a particular expression of opinion, it must be able to show that its action was caused by something more than a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint. Certainly where there is no finding and no showing that engaging in the forbidden conduct would “materially and substantially interfere with the requirements of appropriate discipline in the operation of the school,” the prohibition cannot be sustained.²⁷⁴

The school was unable to prove that the armbands materially and substantially interfered with its operations.

Another case in which the court upheld First Amendment rights was *Virginia v. Black*, which decided that “while a State, consistent with the First Amendment, may ban cross burning carried out with the intent to intimidate, the provision in the Virginia statute treating any cross burning as prima facie evidence of intent to intimidate renders the statute unconstitutional in its current form.”²⁷⁵ In essence, cross burning could be a form of expressive action and is not proof of intent to intimidate.

²⁷² *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969).

²⁷³ “*Tinker v. Des Moines Independent Community School District*,” Oyez, accessed March 23, 2021, <https://www.oyez.org/cases/1968/21>.

²⁷⁴ *Tinker*, 393 U.S. at 509.

²⁷⁵ *Virginia v. Black*, 538 U.S. 343, 347–348 (2003).

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